

**AREA SUBDIVISION CONTROL CODE  
OF FRANKLIN COUNTY**

CHAPTER 81: CODE OF ORDINANCES OF FRANKLIN COUNTY

ORDINANCE NO. \_\_\_\_\_  
FRANKLIN COUNTY, INDIANA

Prepared for the Franklin County Area Plan Commission  
By HNTB Corporation

111 Monument Circle, Suite 1200  
Indianapolis, IN



## TABLE OF CONTENTS

<b>TABLE OF CONTENTS .....</b>	<b>1</b>
<b>SECTION 81.01: SHORT TITLE .....</b>	<b>4</b>
<b>SECTION 81.02: INCORPORATION BY REFERENCE.....</b>	<b>4</b>
<b>SECTION 81.03: APPEALS .....</b>	<b>4</b>
<b>SECTION 81.04: DEFINITIONS .....</b>	<b>4</b>
A. Intent.....	4
B. Rules .....	4
C. Definitions .....	4
<b>SECTION 81.05: PLAT APPROVAL AUTHORITY.....</b>	<b>13</b>
<b>SECTION 81.06: SUBDIVISION REVIEW COMMITTEE ESTABLISHED .....</b>	<b>13</b>
A. Membership.....	13
B. Duties .....	13
C. Meetings.....	13
D. Findings.....	13
<b>SECTION 81.07: GENERAL SUBDIVISION PROCEDURES .....</b>	<b>14</b>
A. Subdivision Must Be Fit.....	14
B. Fee Required.....	15
C. Drafting Standards .....	15
D. Determining the Type of Subdivision.....	15
<b>SECTION 81.08: APPROVAL OF MAJOR SUBDIVISIONS .....</b>	<b>16</b>
A. Primary Approval of a Plat of a Major Subdivision. ....	16
B. Subdivision Improvement Agreement.....	21
C. Construction Drawings.....	22
D. Secondary Approval of a Plat of a Major Subdivision .....	23
E. Recording of a Plat of a Major Subdivision.....	26
F. As Built Plans .....	26
<b>SECTION 81.09: CLUSTER SUBDIVISIONS .....</b>	<b>26</b>
A. Purposes.....	26
B. Requirements for Design and Improvements .....	27
C. Applicability and Compliance.....	27
D. Exemptions .....	27
E. Procedures .....	27
<b>SECTION 81.10: MINOR SUBDIVISIONS .....</b>	<b>29</b>
A. General.....	29
B. Conditions of Eligibility.....	29
C. Sketch Plat.....	29
D. Primary Approval.....	30
E. Appeal .....	32
F. Length of Approval: .....	33
G. Secondary Approval.....	33

<b>SECTION 81.11: ADMINISTRATIVE DIVISIONS.....</b>	<b>34</b>
A. General.....	34
B. Submission Materials.....	35
C. Review Procedure for Administrative Divisions.....	36
D. Appeal.....	36
E. Approval Certificate.....	37
F. Length of Approval for Administrative Divisions.....	37
<b>SECTION 81.12: REPLATS AND VACATIONS .....</b>	<b>37</b>
A. Replats.....	37
B. Plat vacation.....	37
<b>SECTION 81.13: PRINCIPLES AND STANDARDS OF DESIGN .....</b>	<b>38</b>
A. General.....	38
B. Streets.....	39
C. Blocks.....	41
D. Residential Lots for Conventional Subdivisions.....	42
E. Residential Lot Requirements for Cluster Subdivisions.....	42
F. Easements.....	43
G. Building Setback Lines.....	43
<b>SECTION 81.14: OPEN SPACES.....</b>	<b>43</b>
A. Common Open Spaces.....	43
B. Required Open Space in Cluster Subdivisions.....	43
C. Ownership And Maintenance Of Open Space and Other Common Facilities .....	44
<b>SECTION 81.15: STANDARDS OF IMPROVEMENTS .....</b>	<b>46</b>
A. Monuments and Markers .....	47
B. Streets .....	47
C. Drainage Facilities .....	50
D. Sewers.....	51
E. Water .....	52
F. Gas .....	52
G. Improvement Credit Procedure .....	53
H. Curb and Gutter.....	53
I. Sidewalks .....	55
J. Street Signs .....	55
K. Driveway Entrances .....	55
<b>SECTION 81.16: NON-RESIDENTIAL SUBDIVISIONS.....</b>	<b>55</b>
A. General.....	55
B. Arrangement of Lots and/or Blocks.....	56
C. Streets .....	56
D. Alleys.....	56
E. Additional Requirements .....	56
<b>SECTION 81.17: WAIVERS.....</b>	<b>56</b>
A. Granting of Waivers.....	56
B. Criteria for Waivers.....	56

C. Application .....	57
D. Decision by the Plan Commission or Plat Committee .....	57
<b>SECTION 81.18: REPEALER .....</b>	<b>57</b>
<b>SECTION 81.19: AMENDMENTS.....</b>	<b>57</b>
<b>SECTION 81.20:SEVERABILITY CLAUSE.....</b>	<b>57</b>
<b>SECTION 81.21: PENALTY.....</b>	<b>58</b>
<b>SECTION 81.22: EFFECTIVE DATE.....</b>	<b>58</b>
<b>APPENDIX 1: PLAT CERTIFICATES, DEED OF DEDICATION, AND COVENANTS.....</b>	<b>1:61</b>
A. Plan Commission’s Certificates .....	1:65
B. Plat Committee Certificate .....	1:65
C. Executive Director’s Certificates.....	1:64
D. Registered Land Surveyor's Certificate .....	1:64
E. Franklin Soil And Water Conservation District Certificate.....	1:65
F. Deed of Dedication.....	1:66
G. Requirements for Covenants on the Subdivision of Land.....	1:67
H. Certification of Owner For A Family Division.....	1:68
I. Health Department Certificate .....	1:69
J. Cemetery Certificate.....	1:69
K. Drainage Plan Certificate.....	1:70
L. Highway Entrance Certificate.....	1:70
<b>APPENDIX 2: SAMPLE FORMS.....</b>	<b>2:71</b>
A. Form 1: Sample Agreement Form For Development Of A Subdivision.....	2:71
B. Form 2: Sample Performance Or Surety Bond.....	2:74
C. Form 3: Sample Maintenance Agreement Form.....	2:75
D. Form 4: Sample Maintenance Bond Form.....	2:76
E. Form 5: Completion Affidavit.....	2:77
<b>APPENDIX 3: SAMPLE SUBDIVISION IMPROVEMENT AGREEMENT FORM.....</b>	<b>2:78</b>

### **SECTION 81.01: SHORT TITLE**

---

The ordinances, as amended, comprising Chapter 81 of the "Code of Ordinances of Franklin County, Indiana," shall hereafter be referred to as the "Area Subdivision Control Code of Franklin County, Indiana."

### **SECTION 81.02: INCORPORATION BY REFERENCE**

---

Throughout the various Sections of this Ordinance, where reference is made to other regulations and specifications of Franklin County, each such regulation or specification is hereby incorporated by reference into this Ordinance.

### **SECTION 81.03: APPEALS**

---

Every decision by the Plan Commission shall be subject to review by certiorari. Any person aggrieved by a decision of the Plan Commission may present to the Franklin County Court, a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the entry of the decision of the Plan Commission.

### **SECTION 81.04: DEFINITIONS**

---

#### **A. INTENT**

For the purpose of this Code, certain terms or words used herein shall be interpreted according to the rules and definitions of this Section, except when the context clearly indicates otherwise.

#### **B. RULES**

1. Words used in the present tense include the future tense; words used in the future tense include the present tense; words used in the singular include the plural; and words used in the plural include words used in the singular.
2. Words used in the masculine include the feminine; words used in the feminine include the masculine.
3. The word "shall" is mandatory; the word "may" is permissive.

#### **C. DEFINITIONS**

**Access Drive** ..... A strip of land designed to connect one (1) or two (2) lots, or three (3) lots with a street, thereby providing equal access to each lot. (See definition (27) SUBDIVISION, paragraph (c).)

**Administrative Division** ..... Administrative divisions are exempt from most provisions of this ordinance, may not result in or require the creation of an easement (except for family divisions) or the installation of public improvements, and must be one of the following types of division:

- A. A division of land into two (2) or more tracts of which all tracts are legally conforming and at

least 36 acres in size; A-1 District or 12 acres in size in A-2 District.

- B. A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;
- C. A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property, provided that all lots are otherwise in conformance with the standards of this ordinance;
- D. A division of land for federal, state or local government to acquire street right-of-way;
- E. A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division. The lots so created hereunder shall have only one principal use building site each; ,
- F. A family division (see definition); and
- G. A division of a building site containing an existing dwelling which has been located on an agriculturally used site since February 1, 1989.
- H. All lots or tracts divided by administrative division shall have a minimum of thirty (30) feet frontage on an existing public road and consist of one (1) acre excluding road right-of-way and panhandle (in panhandle) lots.

Administrative divisions can also be used for certain resubdivisions such as:

- A. A resubdivision which involves only the removal of interior lot lines, with the outside perimeter of the property remaining unchanged, resulting in fewer parcels than were contained in the original parcel;
- B. A resubdivision which involves only the removal or relocation of easements on the property;

- C. A resubdivision which involves only the changing of notations written on the plat or correction of errors thereon; and
- D. A resubdivision to correct errors in an existing legal description, provided that no additional building lots are created.

<b>Alley</b> .....	A permanent public service way or right-of-way, dedicated to public use, other than a street, place, road, crosswalk or easement, designed to provide a secondary means of access for the special accommodation of abutting property.
<b>Block Frontage</b> .....	Property abutting on one side of a street, and lying between the two nearest intersecting or intercepting streets, or between the nearest intersecting or intercepting street and railroad right-of-way, waterway, or other definite barrier.
<b>Block</b> .....	A unit of property entirely surrounded by public highways, streets, railroad rights-of-way, waterways, or other barriers, or a combination thereof.
<b>Board</b> .....	The Board of Commissioners of the County of Franklin, or the Board of Brookville, or Cedar Grove, or Laurel, or Oldenburg, or Mount Carmel, Indiana, as may be applicable.
<b>Building Setback Line or Building Line</b> .....	The line nearest the front, rear or side of and across a lot establishing the minimum yard to be provided between the principal building or structure and the lot line.
<b>Cluster Subdivision</b> .....	See Subdivision, Cluster.
<b>Commission, Plan Commission</b> .....	The Franklin County Area Plan Commission.
<b>Comprehensive Plan</b> .....	A composite of all materials prepared and approved under the 500 Series of I.C. 36-7-4 or under prior law. It includes a master plan adopted under any prior law.
<b>Conservation Easement</b> .....	The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.
<b>County</b> .....	Franklin County, Indiana.
<b>Covenant</b> .....	An agreement between buyer and seller of a piece of property specifying through written, recorded



document what may or may not be done with the subject property. Covenants are private agreements, therefore Franklin County shall not be responsible for their enforcement.

**Cul-de-sac**

**(Court or Dead End Street)** ..... A short residential street having one end open to traffic and being permanently terminated by a vehicle turn-around.

**Dedication**..... The setting apart of land, or interests in land, for use by the public by Ordinance, resolution or entry in the official minutes, as by the recording of a plat.

**Deed** ..... A written instrument that, when executed and delivered, conveys title to or an interest in real estate.

**Development Envelops** ..... Areas within which grading, lawns, pavement, and buildings will be located.

**Drainage Swale** ..... A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion, or other site feature.

**Drainage System**..... Any combination of surface and/or subsurface drainage components fulfilling the drainage requirements of this Ordinance.

**Easement** ..... A grant by the property owner of the use of a strip of land by the public or a person for specified purposes.

**Family Division** ..... The division of property for the purpose of sale or gift to members of the immediate family of the owner of the property. Immediate family members for the purpose of this definition shall include a spouse, child, grandchild, parent, sibling, or grandparent. Family divisions which do not result in any new public street, the extension of municipal facilities for non-residential use, or the creation of any public improvements other than a sidewalk shall be reviewed and approved as administrative divisions.

**Financial Guarantee** ..... Any guarantee which may be accepted in lieu of a requirement that certain improvements be made before the Commission approves the secondary plat, including but not limited to, performance bonds, escrow agreements, letters of credit, deposit agreements, and other similar collateral or surety arrangements approved as valid and enforceable by the Commission.

<b>Floodplain</b> .....	The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.
<b>Floodway</b> .....	The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
<b>Floodway Fringe</b> .....	Those portions of the floodplain lying outside the floodway.
<b>Frontage</b> .....	All the property on one side of a street between two intersecting streets (Crossing or terminating), measured along the line of the street or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
<b>Frontage Road</b> .....	A road which parallels a major arterial or collector street, providing access from abutting property and separated from the thoroughfare by a common dividing strip.
<b>Grading</b> .....	Any stripping, cutting, filling, stockpiling or any combination thereof and shall include the land in its cut or filled condition.
<b>Health Officer</b> .....	The Franklin County Sanitarian.
<b>Homeowners Association</b> .....	A community association incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or facilities.
<b>Jurisdiction Of The Commission</b> .....	The jurisdiction of the Franklin County Area Plan Commission, which includes all of the area over which this Chapter of the Code is effective: specifically, the towns of Brookville, Laurel, Oldenburg, Cedar Grove and Mount Carmel, Indiana and all of the unincorporated territory in Franklin County, Indiana.
<b>Legal Drain</b> .....	Any drainage system consisting of an open drain, a tiled drain, or any combination of the two that is under the jurisdiction of the County drainage board as provided by I.C. 36-9-27.

<b>Lot</b> .....	A portion of a subdivision, or other parcel of land intended as a unit for transfer of ownership or development.
<b>Lot, Double Frontage</b> .....	A lot, other than a corner lot, which fronts on two streets.
<b>Monument Or Marker</b> .....	A pipe, rod, nail, or any other object which is intended to be a permanent survey point for record purposes.
<b>Nonprofit Conservation</b>	
<b>Organization</b> .....	Any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.
<b>Open Space, Common</b> .....	Undeveloped land within a subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and may be set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historic structures and archaeological sites including Indian mounds, and/or such recreational facilities for residents as indicated on the approved plat.
<b>Open Space (Private)</b> .....	The total horizontal area of a lot excluding the building area but including parking areas and recreational areas.
<b>Parent Tract</b> .....	The land from which the new lot or tract of land is being taken from as recorded before February 1, 1989 in the Recorder's Office at the time of adoption of this Ordinance or any subsequent amendments thereof.
<b>Performance Bond</b>	
<b>Or Surety Bond</b> .....	A personal or corporate surety agreement between a subdivider and such surety in favor of a governmental body guaranteeing the completion of physical improvements according to plan and specifications within the time prescribed by the subdivider's agreement.

<b>Person</b> .....	A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.
<b>Plan Commission Staff</b> .....	The staff of the Franklin County Area Plan Commission, specifically, the Executive Director and Building Inspector, and any other persons employed by the Area Plan Commission, under the supervision of the Executive Director and Building Inspector who have regular duties in the Area Plan Commission Office.
<b>Plat</b> .....	A map or chart indicating the subdivision or resubdivision of land intended to be filed for record. Also, PLAT OF A SUBDIVISION or PLAT OF THE SUBDIVISION.
<b>Plat, Minor</b> .....	See "SUBDIVISION, MINOR"
<b>Plat, Primary</b> .....	The map and supporting information, as described in Section 81.09 [A][5] (in the case of a major subdivision) or Section 81.11[D][5] (in the case of a minor subdivision), indicating the proposed layout of the subdivision which is presented to the Plan Commission Staff for consideration and primary approval in accordance with these regulations.
<b>Plat, Secondary</b> .....	A drawing, in final form, showing the subdivider's plan of subdivision containing all information or detail required by law and by these regulations to be presented to the Plan Commission (in the case of a major subdivision) or the Executive Director (in the case of a minor subdivision) for approval, and which if approved and signed by the designated officials, may be duly filed or recorded by the applicant in the Office of the Franklin County Recorder.
<b>Primary Approval</b> .....	An approval that may be granted by the Plan Commission or Plat Committee and signed and certified by the President of the Plan Commission, or the Chair of the Plat Committee, on a plat of a subdivision in which the procedures, standards of improvement, and conditions have been met by the applicant as required by this Code.
<b>Public Improvements</b> .....	Those rights-of-way, access rights, and physical improvements which, upon formal acceptance by the County or other municipality shall become the responsibility of the County or municipality for ownership and/or maintenance and repair. Public improvements shall include, but shall not be limited

to, the following: curb and gutter, asphalt pavement, concrete pavement, streets of all types, sidewalks, traffic signals, access rights, medians, bridges, acceleration and deceleration lanes, culverts, storm drainage facilities including necessary structures and channels, water lines, sanitary sewer lines, and all other improvements which are intended to be for the use of and enjoyment of the public.

**Replat**..... A subdivision or plat, the site of which has heretofore been platted or subdivided with lots or parcels of land, previous subdivision or plat.

**Right-Of-Way** ..... A specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded in the office of the Franklin County Recorder.

**Secondary Approval**..... An approval that may be granted by the Plan Commission, or the Executive Director, and signed and certified by the President of the Plan Commission, or the Executive Director, on a plat of a subdivision which the Plan Commission has already given its primary approval before it can be filed with the County Auditor and recorded by the County Recorder, and the improvements and installations have been completed as required by this Code; or, if the improvements and installations have not been completed as required, the applicant therefore has provided a bond or other proof of financial responsibility in accordance with the requirements of the Subdivision Control Plan Code.

**Street** ..... A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name.

**Street, Arterial** ..... A street (or Road) designated for large volumes of traffic movement. Certain arterial streets may be classed as Limited Access Highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties. Also MAJOR STREET.

**Street, Collector**..... See "STREET, FEEDER"

<b>Street, Feeder Or Collector</b> .....	A street (or Road) planned to facilitate the collection of traffic from residential streets and to provide circulation within neighborhood areas and convenient ways for traffic to reach arterial streets.
<b>Street, Local</b> .....	See “STREET, RESIDENTIAL”
<b>Street, Residential</b> .....	A street designated primarily to provide access to abutting properties, usually residential. Certain residential streets may be marginal access streets parallel to arterial streets, which provide access to abutting property and ways for traffic to reach access points on arterial streets. Also LOCAL STREET.
<b>Subdivider</b> .....	Any person responsibly engaged in developing or improving a tract of land which complies with the definition of a subdivision as defined in this Chapter.
<b>Subdivision</b> .....	The division of any parcel of land, separately described in a deed on record in the Office of the County Recorder, into two or more contiguous parcels, sites or lots fronting on public street, for the purpose of immediate or future offer, sale, lease, or development.
<b>Subdivision, Conventional</b> .....	Any subdivision which is not designed as a cluster subdivision, whether a minor or a major subdivision.
<b>Subdivision, Major</b> .....	Any subdivision not classified as a minor subdivision or as an administrative division, including but not limited to subdivisions of three (3) or more new lots (in addition to the parent tract), or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.
<b>Subdivision, Minor</b> .....	Any subdivision containing not more than three (3) new lots, in addition to the parent tract, and not involving any new public street, the extension of municipal facilities for non-residential use, or the creation of any public improvements other than a sidewalk.
<b>Subdivision, Cluster</b> .....	A housing development in a rural setting that is characterized by compact lots and common open space, where the natural features of the land are maintained to the greatest extent possible.
<b>Zoning Ordinance</b> .....	An ordinance now or hereafter adopted under the 600 Series of IC 36-74, including a zone map which divides the jurisdiction of the Commission into districts, with regulations and requirements and procedures for the

establishment of land use controls, and which indicates where subdivision of land may occur. Also UNIFIED ZONING ORDINANCE of Franklin County, Indiana, or ZONING CODE.

#### **SECTION 81.05: PLAT APPROVAL AUTHORITY**

---

The Plan Commission shall have exclusive control over the approval of plats and replats of land within Franklin County. The Commission may delegate primary approval of minor plats to the Plan Commission Staff and may delegate approval of secondary plats and administrative divisions to the Plan Commission Staff.

#### **SECTION 81.06: SUBDIVISION REVIEW COMMITTEE ESTABLISHED**

---

A Subdivision Review Committee is hereby established to assist the Plan Commission in the technical review of major subdivisions.

##### **A. MEMBERSHIP**

Committee membership shall be at the request of the Executive Director. The subdivision review committee shall at a minimum include:

1. The Executive Director
2. The County Surveyor
3. The County Assessor
4. The County Sanitarian
5. The County Recorder
6. The County Engineer
7. Representative from the Area Plan Commission
8. Representatives from the County Schools, the Local Extension Office, the Soil and Water Conservation District, and local water and sewer districts affected by the application.
9. The Executive Director may also invite other interested parties to participate in the reviews of particular applications, or as necessity demands.

##### **B. DUTIES**

The duties of the Subdivision Review Committee shall be to assist the applicant in reviewing necessary information prior to presenting a major subdivision to the plan commission; to give technical expertise to the plan commission regarding major subdivision proposals. When required by this Ordinance, the Subdivision Review Committee shall meet with the applicant to review a subdivision proposal prior to its submission to the Plan Commission.

##### **C. MEETINGS**

A subdivider seeking a meeting with the Subdivision Review Committee shall contact the Planning Office to schedule a meeting date and time.

##### **D. FINDINGS**

The findings of the Subdivision Review Committee shall be factual only. Findings of the Subdivision Review Committee shall be in writing and shall be submitted to the subdivider prior to the Area Plan Commission's primary hearing of a subdivision.

#### **SECTION 81.07: GENERAL SUBDIVISION PROCEDURES**

---

A subdivider desiring approval of a plat of a subdivision of any land lying within the jurisdiction of the Commission shall submit a written application therefore to the Plan Commission Staff. Such application shall be accompanied by the information, requirements and plans set forth below and shall be in accordance with the requirements set forth in this Code.

##### **A. SUBDIVISION MUST BE FIT**

The applicant's application shall show the manner in which the plat of the subdivision accomplishes the following:

1. Is coordinated with the Comprehensive Plan and its provisions, specifically, with relation to the requirements of the transportation plan, school and recreational sites, community facilities, sanitation, water supply and drainage.
2. Is coordinated with other developments existing and proposed in the vicinity.
3. Such subdivision will provide adequate access to the land over improved streets or thoroughfares either in existence or provided by the subdivision.
4. That such land is not determined by the Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formation, topography, or any other feature harmful to the health and safety of possible residents and the community as a whole. As a minimum, the Commission is empowered to approve the subdivision of land only after it finds that the land meets the following criteria:
  - a. Steep Slopes: Each lot shall contain a contiguous land area with slopes of less than ten percent (10%) so as to provide a building site of at least seventy-five percent (75%) of the minimum lot size established by the Zoning Ordinance. The remainder of the lot may contain slopes of ten percent (10%) or greater.
  - b. Water Bodies: Each lot shall contain a contiguous land area providing a suitable building site which is at least seventy-five percent (75%) of the minimum lot size established by the Zoning Ordinance. The remaining twenty-five percent (25%) of the required minimum lot size may contain permanent or seasonal water bodies.
  - c. Flood Hazards: Each lot shall contain enough land which is not located in a floodway as defined by the Zoning Ordinance to accommodate the permitted use(s) of the property. In general, lots consisting entirely of land located in a flood hazard area shall not be approved for a subdivision.
  - d. The Executive Director shall review all proposed subdivisions to determine whether the subdivision lies in a flood prone area. If the Plan Commission Staff finds the subdivision to be so located, the Plan Commission Staff shall require the petitioner to forward pertinent plans and materials to the Indiana Department of Natural Resources (IDNR) for review and comment. The Plan



Commission may require appropriate changes and modifications in order to assure the following: it is consistent with the need to minimize flood damages; all utilities and facilities such as sewer, septic, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and adequate drainage is provided so as to reduce exposure to flood hazards.

**B. FEE REQUIRED**

Every application or petition filed pursuant to this Ordinance shall be subject to an application and filing fee, as established from time to time by the County Commissioners.

**C. DRAFTING STANDARDS**

1. All surveys shall be conducted and plats prepared in accordance with Indiana Survey Standards adopted by the Indiana Society of Professional Land Surveyors and any amendments thereto. In the event of any difference between the Indiana Survey Standards and this Section, the stricter requirement shall apply.
2. The original drawing of the plat of the subdivision shall be drawn to a scale of fifty (50) feet to one (1) inch, provided that if the resulting drawing shall be no greater than thirty-six (36) inches in its longest dimension. A scale of one hundred (100) feet to one (1) inch may be used, if necessary. Plats may consist of more than one sheet, but each sheet shall be labeled with the name of the subdivision and numbered. Administrative divisions may be drawn on sheets no smaller than 8 ½ inches by 11 inches. Three (3) black-line prints or blue-line prints, and a Mylar film reproducible print shall be submitted.
3. Two copies of all plats which are to be recorded shall also be submitted on Mylar film, one copy with dimensions of fourteen (14) inches by seventeen (17) inches, and one copy with dimensions no greater than eight and one half (8½) inches by fourteen (14) inches. Recordable plats must be signed and sealed by a land surveyor registered in the State of Indiana.

**D. DETERMINING THE TYPE OF SUBDIVISION**

1. Prior to submitting any of the materials required for subdivisions required by Sections 81.09 through 81.12, the applicant or his/her representative is encouraged to discuss with the Planning Director the nature of the land division being proposed. Based upon the information provided at this conference, the Executive Director will provide the applicant with an opinion as to whether the proposed subdivision qualifies as an administrative, cluster, minor or major subdivision. Failure to hold this conference and/or to provide complete and accurate information to County staff at this stage may cause delays in formal consideration of the subdivision.
2. In making his determination, the Executive Director shall use the criteria set forth in Section 81.04 [Definitions] as well as Sections 81.09 through 81.12 below to determine the type of subdivision, provided however, that the Executive Director

shall reserve the right to determine that any subdivision which involves atypical circumstances be reviewed at a higher level of review. The Planning Director's decision may be appealed to the Plan Commission.

#### **SECTION 81.08: APPROVAL OF MAJOR SUBDIVISIONS**

##### **A. PRIMARY APPROVAL OF A PLAT OF A MAJOR SUBDIVISION.**

1. Sketch Plat:
  - a. Prior to submitting an application for a primary plat, the subdivider shall schedule a meeting with the Planning Director for the review of a sketch plat of the proposed subdivision. The purpose of this review is to acquaint the subdivider with the applicable plans and ordinances, as well as to make the subdivider aware of procedural and application requirements.
  - b. The sketch plat review is intended only for the above purposes; neither the developer nor the County is bound by any decision made during a sketch plat review.
  - c. The sketch plat of the proposed subdivision should be drawn to scale and should include the following:
    - (1) A legal description of the property
    - (2) A location map showing the parent tract and including any lots previously subdivision from it.
    - (3) The location of all existing property lines, existing easements, and existing watercourses; location, width, and names of existing platted streets within or adjacent to the tract; and names of adjoining property owners.
    - (4) Locations of existing utilities within the tract and immediately adjacent thereto.
    - (5) Existing natural features and topographic or geologic constraints.
    - (6) Approximate location and widths of proposed streets.
    - (7) Preliminary proposals for connection with existing water and sewer systems; preliminary provisions for collecting and discharging surface water drainage.
    - (8) Approximate location and area of all parcels of land to be set aside for park or playground use or other public use or for the use of the property owners in the proposed subdivision.
  - d. The Plan Commission may consider the failure to present a sketch plat to the Executive Director prior to the submission of a Primary Plat as an improper form or an incomplete application and may not receive or consider the application until the Executive Director's review has occurred in accordance with the requirements set forth herein.
2. Application for Primary Approval

- a. An application for a primary approval of a plat of a major subdivision shall be submitted to the Plan Commission Staff at least thirty (30) days prior to the meeting at which the applicant seeks Plan Commission action. Applications not accompanied by the appropriate application fee will not be scheduled for a hearing.
  - b. If the application is found by the Executive Director to be complete, he shall schedule the petition for a public hearing before the Area Plan Commission Review by Subdivision Review Committee
  - c. Upon receipt of an application for primary approval of a plat of a major subdivision, the Plan Commission Staff shall forward the application to the Subdivision Review Committee who shall review the application for technical conformity with the standards set forth in this Chapter of the Code. The Subdivision Review Committee shall schedule a meeting with the petitioner to review the project. Such meeting shall be held no later than two (2) weeks prior to the Plan Commission meeting for which the application was submitted.
  - d. Any changes to the application for primary approval of a major subdivision shall be submitted to the Plan Commission Staff no later than five (5) business days prior to the Plan Commission meeting at which the application was submitted. Failure to submit revised plans by the deadline shall result in a continuance to the next regularly scheduled Plan Commission meeting.
3. After the Plan Commission Staff has announced a date for a hearing before the Commission, it shall:
  - a. Notify the applicant in writing;
  - b. Require that the petitioner give notice of the hearing by publication in accordance with I.C. 5-3-1; and
  - c. Require that the petitioner provide due notice to interested parties at least ten (10) days before the date set for the hearing, all in accordance with the Rules of Procedure of the Plan Commission.
4. All requests for primary approval of a major subdivision shall provide the following:
  - a. Location Map
 

The subdivider shall include a location map with the application shows the following:

    - (1) Subdivision name and location.
    - (2) Any thoroughfares adjacent to the subdivision.
    - (3) Existing elementary and high schools, parks, and playgrounds available for serving the area proposed to be subdivided, and other community facilities.
    - (4) Location of Corporation Lines if applicable.
    - (5) Title, scale, north point and date.

- b. Names and addresses of the owner and the subdivider.
- c. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in five thousand (5,000) feet.
- d. Location, type, material and size of all monuments and lot markers.
- e. Accurate distances and directions to the nearest established street corners or official monuments. Reference corners shall be accurately described on the plat.
- a. Contours at vertical intervals of two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of five (5) feet if the general slope is ten percent (10%) or greater.
- b. Proposed name of the subdivision.
- c. Layout of lots, showing dimensions and numbers.
- a. Minimum setback lines and dimensions, as determined by the zoning ordinance.
- b. Streets and rights-of-way, on and adjoining the site of the subdivision, and including roadway widths, approximate gradients, types and widths of pavement, curbs, walks, crosswalks, sidewalks, tree planting and other pertinent data. All street pavements and rights-of-way shall include accurate dimensions in feet and hundredths of feet, with angles to street, alley and lot lines.
- c. Accurate locations of easements for utilities showing widths, purposes, and any limitations on such easements,.
- d. Location and size of storm and sanitary sewers and water distribution system.
- e. Accurate dimensions for any property to be dedicated or reserved for public, semipublic or community use.
- f. Restrictions of all types which will run with the land and become covenants in the deeds for lots.
- o. Engineering Plans and Specifications  
 The subdivider shall submit the following Engineering Plans and Specifications and other required information with the application:
  - (1) Profiles, typical cross-sections and specifications for proposed street improvements.
  - (2) Profiles and locations and other explanatory data concerning the installation of sanitary and storm sewerage systems and water distribution system.
  - (3) If the subdivision is to be developed in phases, a description of the portion of the overall plat of the subdivision intended to be filed for

record, including a program for the progressive development of the entire area contained in the overall plat.

- (4) A statement of the estimated amount of money sufficient to complete the improvements and installations by the subdivider, attested to by a registered land surveyor or a registered professional engineer.

p. Additional Information

The subdivider shall submit the following supplementary information with the application:

- (1) Statement of the proposed use of lots, stating type of residential buildings with number of proposed dwelling units, or the type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, or congestion of population.
- (2) Evidence of an adequate source of water supply.
- (3) A National Cooperative Soil Survey Map from the Franklin County Soil and Water Conservation District showing the soil limitations based upon the intended usage of the development land.
- (4) An erosion control plan that meets the respective County Soil and Water Conservation guidelines for urban development and the requirements of the Area Zoning Code of Franklin County, Indiana.
- (5) A Drainage report that complies with Section 81.16[C] of this Code.
- (6) Evidence of the ability to serve the development with sewer, or if private sewage or septic system is proposed, a statement from the Health Officer as to whether the private sewage or septic systems can be used on the property in the location and manner proposed.
- (7) If any of the development is within a flood plain, a statement from the Indiana Department of Natural Resources, Division of Water, concerning construction in floodway, including flood plain high water marks, etc. See Section 80.05.07 of the Zoning Code for procedures.
- (8) Approval and signatures of the Franklin County Drainage Board.

q. Certificates and Additional Approvals

- (1) Certificate for primary approval by the Commission, to be signed by the President of the Commission. (See Appendix A)
- (2) Certification by a registered land surveyor or registered professional engineer. (See Appendix A)
- (3) Certification by Franklin County Soil and Water Conservation District. (See Appendix A)
- (4) Certification by the Franklin County Area Planning Commission Executive Director.
- (5) Certification by the Cemetery Commission.
- (6) Certification by the Franklin County Highway Entrance Department.
- (7) Certification by the Franklin County Health Department.

5. For all major subdivision primary plats, the Plan Commission shall hold a public hearing in accordance with I.C. 36-7-4-700 and its Rules of Procedure.
  - a. If after the hearing, the Commission determines that the application and plat comply with the standards in this Code, it shall make written findings and a decision granting primary approval for the plat of the subdivision. This decision shall be signed by the President of the Commission. In making its determination, the Plan Commission shall consider whether:
    - (1) definite provisions have been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;
    - (2) adequate provisions have been made for a public sewage system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations and that such systems will not adversely affect the public health, safety and welfare of existing and future residents;
    - (3) all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions.
    - (4) the subdivider has the financial ability to complete the proposed subdivision in accordance with all federal, state, and local laws and regulations;
    - (5) the proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking community services between developed parcels; and
    - (6) the subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.
  - b. In making its decision to grant approval to the primary plat, the Plan Commission may impose conditions to its approval relating to:
    - (1) the manner in which public ways shall be laid out, graded, and improved;
    - (2) a provision for water, sewage, and other utility services;
    - (3) a provision for drainage design; and
    - (4) a provision for other services as specified in this Ordinance.
  - c. If, after the hearing, the Commission disapproves the plat, it shall make written findings that set forth its reasons and a decision denying primary approval and shall provide the applicant with a copy. This decision shall be signed by the President of the Commission.
6. Appealing the Decision of the Plan Commission

The primary approval or disapproval of a primary plat by the Commission or the imposition of a condition on primary approval is a final decision of the

Commission that may be reviewed by certiorari procedure as provided by I.C. 36-7-4-1016.

## 7. Time Limit

An approval of the Primary Plat shall be effective for a period of twelve (12) months (1 year) unless, upon request of the applicant, the Commission grants an extension of time. The application for a Secondary Plat shall be submitted to the Commission, and if it is not received within the period of time above specified, all previous actions of the Commission with respect to the plat shall be deemed to be null and void.

## B. SUBDIVISION IMPROVEMENT AGREEMENT

1. The Applicant must obtain subdivision improvement agreement approval from the Commission before commencing the construction or installation of the required improvements.
2. The purposed and objective of subdivision improvement agreement approval is to establish a written understanding, in contract for, regarding the nature, extent and completion of the required improvements before the Applicant contracts for or commences the construction or installation of the required improvements, so that:
  - a. compliance with primary approval and these regulations may be promoted;
  - b. the Commission and the County may share information and public improvement experience with the Applicant;
  - c. the activities of the Applicant, governmental service providers and utility service providers may be coordinated; and,
  - d. the unnecessary expenditure of development resources, both public and private, may be avoided.
3. Subdivision Improvement Agreement Approval Procedure
  - a. Following primary approval and prior to or concurrent with the submission of the plat for secondary approval, the Applicant shall, by letter, request subdivision improvement agreement approval from the Commission. The Applicant's letter shall be accompanied by three (3) sets of detailed construction plans as described in Section 81.09[C] below, and a proposed form of subdivision improvement agreement as found in Appendix C.
  - b. Within fifteen (15) working days of receipt, the Executive Director shall review the subdivision improvement agreement and the construction plans for compliance with these regulations and primary approval. The petitioner shall further be required to submit construction plans and the subdivision improvement agreement to an Indiana Licensed Professional Engineer who shall also review the plans for compliance with these regulations for primary approval. Following their review, the Executive Director and the Engineer shall each prepare a written report, with recommendations, on the agreement and plans and shall provide the Applicant and the Commission with a copy of their reports.
  - c. Upon a finding by the Commission that the subdivision improvement agreement and the construction plans comply with these regulations and

primary approval, the President of the Commission shall execute the agreement on behalf of the Commission and the Executive Director shall stamp the plans "Approved" and return one (1) set to the Applicant.

- d. Prior to the approval and execution of the subdivision improvement agreement and the stamping of the construction plans:
  - (1) the Applicant may not commence the construction or installation of the required improvements;
  - (2) the Planning Department may not approve building or improvement location permits for the required improvements; and
  - (3) the Plan Commission may not grant secondary approval of the plat, or any section thereof.
4. The installation of the required improvements shall be inspected by a licensed registered professional Engineer in Indiana. Such inspections are required in all instances regardless of whether the work is performed before or after secondary approval. Failure to request or to procure the inspection of the work performed before Secondary approval may be cause for denial of final approval.

#### C. CONSTRUCTION DRAWINGS

Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than fifty (50) feet to one (1) inch, and the map sheet shall be the same size as the primary plat. The following shall be shown:

1. Profiles showing existing and proposed elevations along centerlines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the center-line of the existing road or roads within one hundred (100) feet of the intersection shall be shown. Approximate radii of all curves, lengths of tangents, and central angles on all streets shall be shown.
2. The Plan Commission may require, where steep slopes exist, that cross sections of all proposed streets at one-hundred-foot (100 foot) stations be shown at five (5) points on a line at right angles to the centerline of the street; and said elevation points shall be at the centerline of the street, each property line, and points twenty-five (25) feet inside each property line.
3. Plans and profiles showing the locations and typical cross-section of street pavements including curbs and gutters, sidewalks, drainage easements, servitudes, rights-of-way, manholes, and catch basins; the locations of street trees, street lighting standards, and street signs; the location, size and invert elevations of existing and proposed sanitary sewers (where applicable), storm water drains (where applicable), and fire hydrants, showing connection to any existing or proposed utility systems; and the exact location and size of all water, gas, or other underground utilities or structures.
4. Location, size, elevation, and other appropriate descriptions of any existing facilities or utilities, including but not limited to, existing streets, sewers, drains, water mains,



- easements, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, and the point of connection to proposed facilities and utilities within the subdivision.
5. Topography at the same scale and interval as the primary plat.
  6. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in five thousand (5,000) feet.
  7. All specifications and references required by the County's construction standards and specifications, including a site-grading plan for the entire subdivision.
  8. Title, name, address, and signature of a professional engineer and surveyor, and revision dates.

#### D. SECONDARY APPROVAL OF A PLAT OF A MAJOR SUBDIVISION

The Commission may grant secondary approval for all or any part of a plat of a subdivision which has heretofore been given primary approval by the Commission, or the Commission may delegate to the Plan Commission Staff the authority to grant such secondary approvals; provided that secondary approvals may only be granted after the expiration of the time for appeal under I.C. 36-7-4-710; specifically after 30 days has elapsed from the date of the decision of the Commission under Section 81.09[A], herein.

The Secondary Plat shall incorporate all changes or modifications required by the Commission by the primary approval; otherwise it shall conform to the overall primary plat as approved by the Plan Commission.

##### 1. Phasing of Development

The Secondary Plat may include all or any phase of the Primary Plat which has received approval. However, when secondary approval is being sought for only one phase of the subdivision, the applicant shall provide a description of the portion of the approved Primary Plat intended to be filed for record, including a phasing plan for the progressive development of the entire area contained in the approved Primary Plat.

2. An application for a secondary approval of a plat of a major subdivisions shall be submitted to the Plan Commission Staff at least thirty (30) days prior to the meeting at which the applicant seeks Plan Commission action. All application for secondary approval must be accompanied by the appropriate application fee.

##### 3. Required Submittals

The Secondary Plat shall have the following information:

- a. Name of the subdivision, followed by the words, "Secondary Plat".
- b. Name and address of the owner and the subdivider.
- c. Scale, north point, and date.
- d. Certification by a registered land surveyor.
- e. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in five thousand (5,000) feet.

- f. Accurate distances and directions to the nearest established street corners of official monuments. Reference corners shall be accurately described on the plat.
  - g. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.
  - h. Street lines with accurate dimensions in feet and hundredths of feet, with angles to street, alley, and lot lines.
  - i. Lot numbers and dimensions, and lot area in acres.
  - j. Accurate locations of easements and any limitations on such easements.
  - k. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
  - l. Building setback lines and dimensions.
  - m. Location, type, material and size of all monuments and lot markers.
  - n. Restrictions of all types which will run with the land and become covenants in the deeds for lots. Such restrictions shall include the enforcement language found in Appendix A[2] and the right to farm language in Appendix A[1], when applicable.
  - o. Deed of dedication of streets and other public property (see Appendix).
  - p. Required secondary approval certificates (see Appendix).
  - q. Completion affidavit for infrastructure improvements, unless the conditions of Section 81.09[D][4] below are met.
4. Secondary approval may be granted to a plat of a subdivision in which the improvements and installation have not been completed as required by this Code, if the applicant provides a bond, or other proof of financial responsibility as prescribed herein that:
- a. the improvements and installations in compliance with this Code;
  - b. Provides a three (3) year surety bond satisfactory to the Commission; and
  - c. Is an amount determined by the Commission to be sufficient to complete With respect to the installation or extension of water, sewer, or other utility service:
    - (1) The applicant shows by written evidence that it has entered into a contract with the political subdivision or utility providing the service; and
    - (2) The Plan Commission determines based on written evidence that the contract provides satisfactory assurance that the service will be installed or extended in compliance with this Code.
  - d. Other proof of financial responsibility may take the following forms:
    - (1) An arrangement whereby cash would be advanced to the Town or the County (depending upon the location of the subdivision) by the Subdivider, and subsequently the Clerk-Treasurer of the Town or the Auditor of the County (as the case may be) would release to the subdivider amounts of this money in percentages of the total cost of improvements and installations in the plat of a subdivision, when such completed portions of the plat have been attested to by

a registered professional civil engineer or registered land surveyor, and approved by the Commission. Upon completion of all of the improvements and installations in the plat, the Town or County (as the case may be) would reimburse the subdivider the total balance of the money originally deposited with the Town or County; or

- (2) An arrangement whereby the Town or the County (depending upon the location of the subdivision) would have undeniable access to the funds in an escrow account or other type of account, held by a bank or other lending institution, until all of the improvements and installations in the plat of a subdivision have been completed.
9. A performance bond or a surety bond as security will be released only upon receipt of a certificate by a registered professional civil engineer or a registered land surveyor that all improvements and installations for the plat of the subdivision required for its approval have been made or installed in accordance with specifications.
10. The Applicant shall provide a three (3) year maintenance bond before secondary approval may be granted. (See Appendix B, Form 4.)
11. The secondary plat must conform to the previously approved primary plat. If the Plan Commission finds that the secondary plat differs from the primary plat, then the applicant must submit a new primary plat for approval. The Plan Commission may require a new primary plat if it observes the following differences, including but not limited to:
  - a. The secondary plat has a different street pattern than the primary plat.
  - b. The secondary plat has an increased number of lots than the primary plat.
  - c. The secondary plat has a different drainage scheme than the primary plat.
  - d. The secondary plat has reduced lot sizes from the primary plat.
12. At the conclusion of the Plan Commission's hearing on the secondary plat, the Commission shall make one of the following decisions:
  - a. If the Plan Commission determines that the application and plat are in substantial conformity with the primary plat, any conditions of approval attached thereto, and with the subdivision improvement agreement, it shall grant secondary approval to the plat. The Plan Commission shall make written findings of its decision to grant secondary approval for the plat of the subdivision, and both the decision and the plat shall be signed by the President of the Commission.
  - b. If the Plan Commission determines that the application and the plat are not in substantial conformity with the primary plat, any conditions of approval attached thereto, or with the subdivision improvement agreement, it shall deny, with written findings, the secondary approval to the plat. The applicant shall be provided with a copy of the decision and written findings. The President of the Plan Commission shall sign the decision.
13. No notice or hearing is required for secondary approvals.

14. Approval of a Secondary Plat shall be subject to the improvements being constructed and accepted for dedication or the appropriate financial guarantee being posted with the County Commissioners *[or Town Board]* before recording. Copies of these agreements shall be on file at the County Auditor's office *[or the Office of the Clerk-Treasurer]*.
15. No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after secondary approval has been given by the Plan Commission and the Plan Commission President has signed the Certificate of Approval, unless said plat is resubmitted to the Commission and such change(s) are approved.

E. RECORDING OF A PLAT OF A MAJOR SUBDIVISION

1. A plat of a subdivision may not be filed with the Auditor of the County, and the Recorder of the County may not record it, unless it has been granted secondary approval and signed and certified by the President of the Commission.
2. The filing and recording of the plat is without legal effect unless approved by the Commission or its appointed authority.

F. AS BUILT PLANS

1. After completion of all improvements, the applicant shall provide the Commission with two (2) copies of drawings showing the actual locations and specifications of all improvements installed in the subdivision. These As-Built Plans shall be certified as correct by a land surveyor or engineer licensed in the state of Indiana.
  1. Failure to provide correct As-Built Plans to the County shall result in penalties and fines as described in Section 81.21

## SECTION 81.09: CLUSTER SUBDIVISIONS

---

A. PURPOSES

This section is adopted for the following purposes:

1. To guide the future growth and development of the County consistent with the County's adopted Comprehensive Plan;
2. To locate and coordinate appropriate areas for development and conservation;
3. To preserve the rural character through the permanent preservation of meaningful open space and sensitive natural resources;
4. To preserve scenic views by minimizing views of new development from existing roads;
5. To preserve agricultural character by concentrating housing on lands that have lower agricultural potential;
6. To provide commonly-owned open space areas for passive and/or active recreational use by residents of the development;
7. To provide buffering between residential development and non-residential uses;
8. To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors;
9. To preserve significant archaeological sites, historic buildings and their settings; and

10. To meet demand for housing in a rural setting.

B. REQUIREMENTS FOR DESIGN AND IMPROVEMENTS

Land Suitability. No land shall be developed which is held to be unsuitable for any proposed use if identified as being environmentally sensitive. Areas identified as being environmentally sensitive include, but are not limited to:

1. All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA).
2. All wetlands identified on the National Wetlands Inventory.
3. All areas having a slope of 20 percent or greater.
4. Areas that are known to provide habitat for rare, threatened or endangered species.
5. Burial sites and Indian mounds.

Areas determined to be environmentally sensitive may be included as common open space in a conservation subdivision but shall not be included in the development yield analysis in Section 81.10[E][5]. These lands shall be identified as common area or other designation that indicates the land is not available for development.

C. APPLICABILITY AND COMPLIANCE

The number of new parcels that can be created shall be consistent with the applicable zoning ordinance for the parent parcel. The overall development density for the parent parcel is the same as would be allowed for a conventional subdivision in the existing zoning district. The provisions of this section apply to all residential development within the A1 district established in the Franklin County Zoning Ordinance. Cluster subdivisions shall be encouraged, but not required in the A2, RE, R1, R2 and R3 districts.

D. EXEMPTIONS

Any subdivision of land located in an A1 district which meets at least one of the following criteria shall be exempt from the requirement for clustering.

1. Where the subdivision meets the criteria set forth in Section 81.11 for an administrative division;
2. Where each of the lots resulting from the subdivision will be greater than 36 acres;
3. Where the proposed development is determined by the Executive Director to be an infill development in an already developed area; or
4. Where the enforcement of County or State Health Standards would result in a decrease of the development potential of the property (i.e. number of lots) by twenty-five percent (25%) or greater when developed as a cluster rather than by conventional subdivision design.

E. PROCEDURES

The procedures for approval of a cluster subdivision plat shall be the same as for a major or minor subdivision of land under Section 81.08 and Section 81.10 of this Ordinance, provided that in addition to the requirements for submittals for minor and

major subdivisions, applications for a preliminary plat of a cluster subdivision shall provide the following:

1. Inventory of existing land cover on the site, according to general cover type (pasture, woodlands, etc.), and stand-alone trees with a caliper of more than twenty-four (24) inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation.
2. Inventory of known critical habitats for rare, threatened, or endangered species.
3. Inventory of unique geological resources such as rock outcrops and glacial features.
4. Inventory of cultural resources, including a brief description of the historic character of buildings and structures, historically important landscapes, and archeological features. This shall include a review of existing historic inventories.
5. Development Yield Analysis

The development yield analysis shall show, either in a table or in graphic form, the number of dwelling units that can be built on the site. The number of dwelling units permitted in a cluster subdivision shall be the same as would be permitted in a conventional subdivision developed under the requirements of the County Zoning Ordinance for lot size, lot width, and setbacks. To determine the number of dwelling units that would be permitted in a conventional subdivision, the following procedure shall be used.

- a. The following shall be subtracted from the gross acreage of the parent tract: Ten percent (10%) of the gross acreage for roads, and any sites that are considered unbuildable, including any land which qualifies as environmentally sensitive under Section 81.10[B], land inundated by water (land under lakes, ponds, creeks, etc.), or land under permanent easement prohibiting future development.
  - b. The remainder of the land shall then be divided by the minimum lot size of the zoning district in which it is located to determine the number of dwelling units that could be developed.
  - c. The resulting number of units may be built in the cluster subdivision in the manner set forth below.
  - d. If the subdivision site is located in more than one zoning district, the maximum number of lots allowed shall be individually determined and applied for each portion of the site located in a different zoning district, except that allowable lots may be transferred within the subdivision site from one zoning district to another zoning district with a higher maximum lot-per-acre standard, provided the number of lots transferred is no more than thirty percent (30%) of the maximum number of lots allowed in the receiving district, as determined using the formula above.
6. Density Bonuses

Notwithstanding the requirements of the development yield analysis above, density bonuses may be given to a subdivider for the following conditions:

- a. Where clustering is not required by this Ordinance, a subdivision may receive a fifteen percent (15%) density bonus for creating a cluster subdivision which meets the requirements of this Section.
  - b. A subdivider may receive a density bonus to generate income for the express and sole purpose of endowing a permanent fund to finance the cost of maintenance of the subdivision's common open space. A minimum of seventy-five percent (75%) of the selling price of the additional lots obtained as a result of the density bonus shall be donated to the Open Space Endowment Fund for the preserved lands within the subdivision. The total amount donated to the Endowment Fund shall be twenty (20) times the amount estimated to be required on a yearly basis to maintain the common open space, and spending from this fund should be restricted to expenditure of interest, in order that the principal may be preserved. Such estimates of the amount of lots necessary to create the financing for such a fund shall be prepared by an agency or organization with experience in common open space management acceptable to the Plan Commission. The subdivider shall provide the Plan Commission with his plans for transferring the funds to a designated entity who will have ownership and maintenance responsibilities over the common open space (such as a homeowners association or a land trust).
7. Site Analysis and Concept Plan
- Using the inventory and development yield analysis provided above, and applying the design standards specified in Sections 81.09[A] and [B] and Sections 81.13 and 81.17 of this Code, the subdivider shall submit a concept plan including at least the following information at a scale of no less than one inch to 100 feet:
- a. Open space areas indicating which are to remain undeveloped and trail locations, if applicable.
  - b. Boundaries of areas to be developed and proposed general street and lot layout.
  - c. Number of housing units proposed.
  - d. Proposed methods for and location of water supply, stormwater management, and sewage treatment.
  - e. Inventory of preserved and disturbed natural features and prominent views.
  - f. Preliminary development envelopes showing areas for lawns, pavement, buildings, and grading.
  - g. Proposed methods for ownership and management of open space.

#### **SECTION 81.10: MINOR SUBDIVISIONS**

---

##### **A. GENERAL**

1. Those subdivisions meeting the definition of "subdivision, minor" contained in Section 81.04 of this Ordinance may be considered under the provisions of this Section. Replats meeting the conditions of eligibility contained herein may also be considered under the provisions of this Section. The requirements for qualification as a minor subdivision cannot be waived under the procedures outlined in Section 81.17. Minor subdivisions may receive primary approval by the Plan Commission Staff and secondary approval by the Plan Commission staff.

2. In the event of any uncertainty as to compliance or classification of any subdivision assigned to the Plan Commission Staff, the committee shall forward such subdivision to the Plan Commission for consideration.

**B. CONDITIONS OF ELIGIBILITY**

Before determining that a subdivision is eligible to be considered under this Section, the Executive Director shall find that all of the following criteria are satisfied:

1. **Orderly Development:** The subdivision will not impede orderly development of land or the provision of public services and improvements.
  - a. The subdivision will not interfere with the implementation of the Comprehensive Plan.
  - b. The subdivision will not interfere with the provision of streets to provide access to adjoining or nearby property in the event that such property is developed in the future.
2. **Utilities and Drainage:** All parcels in the subdivision will have adequate utilities and drainage, in accordance with Section 81.16 [C] through [F] of this Code.
3. **Access:** All parcels in the subdivision and adjacent land will have adequate ingress and egress without the construction of any new public streets or substantial improvement to existing streets.
  - a. All lots will have legal access to a platted private street or to an existing public street which has been accepted for maintenance by a public agency. Such street shall meet the standards set forth in Section 81.15[B] and [C] and Section 81.16[B] of this Ordinance. The creation of any new public street shall result in the petition being reviewed as a major subdivision.
  - b. Frontage on limited access streets on which driveways cannot open shall not constitute legal access.
  - c. All lots will have a driveway location which will provide for adequate sight distance and will be located according to the standard set forth in Section 81.13[E] through [G] of this Ordinance.
  - d. Land adjacent to the property involved in the subdivision shall also have adequate access according to the criteria contained in this subsection.
4. **Suitability.** All lots in the subdivision will provide suitable building sites for the purpose for which the land is to be used. Land suitability shall be determined by the criteria set forth in Section 81.07 [A] of the ordinance.
  1. **Endangerment.** The subdivision will not be detrimental to nor endanger the public health, safety or general welfare.
  2. **Division from the Parent Tract.** No subdivision which results in the creation of more than three (3) lots from a parent tract, whether at the same time or over the course of time, shall be considered under minor subdivision review. Any new subdivision which would result in a cumulative total of more than three (3) lots in addition to the original parent tract shall be considered a major



subdivision, regardless of whether the lots are created through one subdivision or several subdivisions over time.

### C. PRIMARY APPROVAL

1. An application for a primary approval of a plat of a minor subdivision shall be submitted to the Plan Commission Staff. Applications not accompanied by the appropriate application fee will not be scheduled for a hearing.
2. Upon receipt of an application for primary approval of a plat of a minor subdivision, the Plan Commission Staff shall review the application for technical conformity with the standards set forth in this Chapter of the Code. Five (5) working days should be allowed for review of an application.
3. If the application is found by the Executive Director to be complete, he shall schedule the petition for a hearing.
4. Required Submission Materials: All requests for primary approval of a minor subdivision shall provide the following:
  - a. An original drawing prepared in accordance with the specifications set forth in Section 81.08[C], showing the following:
    - (1) Legal description of the subdivision.
    - (2) North point, scale and date.
    - (3) Layout of lots, showing dimensions and numbers.
    - (4) Boundary lines of floodway and floodway fringe areas on each lot as scale from the Fire Insurance Rate Maps (FIRM) of current adoption.
    - (5) Accurate locations of easements for utilities and any limitations on such easements, showing widths and purposes of easements.
    - (6) Streets and rights-of-way, on and adjoining the site of the subdivision, and including roadway widths.
    - (7) For proposed private roadways: approximate gradients, types and widths of pavement, curbs, walks, crosswalks, sidewalks, tree planting and other pertinent data. All street pavements and rights-of-way (existing and proposed) shall include accurate dimensions in feet and hundredths of feet, with angles to street, alley and lot lines.
    - (8) Location Map meeting the requirements of Section 81.08[A] [4] [a].
    - (9) Contours at vertical intervals of no greater than ten (10) feet and no less than two (2) feet, using the most accurate data available to the petitioner at the time of the filing.
  - b. Supporting Material: The following supporting material shall be submitted with the primary plat:
    - (1) The names and address of all adjacent land owners.

- (2) Evidence that water and sewage treatment can be obtained or location on the plat of proposed wells and septic leach fields.
  - (3) Documentation sufficient to show that all applicable design standards of this Ordinance are met by the proposed subdivision.
  - (4) Erosion control plan, if necessary, to comply with the standards set forth in Section 80.11 of the Zoning Ordinance.
  - (5) Drainage report, if necessary, to comply with the standards set forth in Section 81.16[C].
  - (6) Any covenants or other restrictions which will run with the land included in the subdivision, including but not limited to provisions regarding the maintenance of any private roadways.
  - (7) If any lot in a minor subdivision is to receive its access from a State Highway, evidence that a driveway permit can be issued by the Indiana Department of Transportation shall be submitted.
  - (8) Required approval certificates (see Appendix)
  - (9) Where the provisions of this Ordinance require additional reviews by other public bodies or agencies (i.e. the Drainage Board or the Soil and Water Conservation Service), the applicant should seek approval by such bodies or agencies prior to a Plat Review.
5. Review: The Plan Commission Staff will review the plat for compliance with the Area Subdivision Control Code of Franklin County, Indiana.
  6. Public Notification: Approval may be granted to a minor subdivision by the Plan Commission Staff without public notice and hearing. Within ten (10) days after approval, the petitioner shall provide due notice by certified return mail to adjacent property owners. Such notice shall include a notification of the right to appeal the Commission Staff's decision.

Comment Period: Adjacent property owners and the petitioner(s) shall have a ten (10) day comment period from the date the notice is mailed, within which any notice of appeals must be filed with the Plan Commission staff.

#### D. APPEAL

Appeal shall be governed in accordance with the following:

##### 1. Initiation of Appeal

- a. Any final decision of the Plan Commission Staff may be appealed to the Plan Commission. Appeal may be initiated by the applicant, or any property owner affected by such final decision.
- b. An appeal shall be in writing, directed to the Plan Commission, and sent by to certified mail by the Plan Commission staff. All appeals must state the basis by which the affected party feels the plan commission staff erroneously approved or deny the subdivision.
- c. If the expiration of the ten (10) day comment period occurs on a Saturday, Sunday, or recognized County holiday, then such expiration date shall be extended to include the next business day thereafter following.

2. **Public Hearing:** Appeals of the decision made by the Plan Commission Staff shall be heard by the Plan Commission at a regularly scheduled public hearing, or in accordance with the Commission rules at a special meeting of the Plan Commission. Said hearing shall take place within forty-five (45) calendar days after the filing of an appeal with the Plan Commission staff, and the Plan Commission shall render its written final decision within fifteen (15) business days after such hearing. With the consent of the applicant and the Plan Commission, said hearing day may be extended.
3. **Plan Commission Decision:** A final decision of the Plan Commission may be appealed to the Circuit Court or Superior Court of Franklin County, Indiana. Said appeal shall be through a Petition for Writ of Certiorari filed with the clerk of the appropriate court within thirty (30) days after the date of such final decision. Said petition shall in all respects conform to the Indiana Law.

E. LENGTH OF APPROVAL:

Primary approval of a minor subdivision shall be valid for 120 days, unless an extension is granted by the Plan Commission. If secondary approval is not granted before the expiration of 120 days, the primary approval shall be null and void.

F. SECONDARY APPROVAL

1. After all conditions of primary approval have been met and the time for appeal has passed, the applicant may request secondary approval from the Plan Commission Staff. All applications for secondary approval must be accompanied by the appropriate application fee.
2. **Required Submission Materials:** All requests for secondary approval shall provide the following:
  - a. **Secondary Plat:** An original drawing (which may be the same drawing submitted as a primary plat) prepared in accordance with the standards set forth in Section 81.08 [E] for recordable plats.
  - b. **Restrictions of all types** which will run with the land and become covenants in the deeds for lots. Such restrictions shall include the enforcement language found in Appendix A [2] and the right to farm language in Appendix A [1], when applicable.
  - c. **Supporting Material:** Documentation sufficient to show that all conditions of primary approval by the Commission or Plat Committee have been met.
  - d. **Required approval certificates** (see Appendix A)
  - e. The Planning Director or Plan Commission may, at their discretion, require a subdivision improvement agreement in accordance with Section 81.09 [B] of this Ordinance.
3. The secondary plat must conform to the previously approved primary plat. If the Executive Director finds that the secondary plat differs from the primary plat, then

the applicant must submit a new primary plat for approval. The Executive Director may require a new primary plat if they observe the following differences, including but not limited to:

- a. The secondary plat has a different street pattern than the primary plat.
  - b. The secondary plat has an increased number of lots than the primary plat.
  - c. The secondary plat has a different drainage scheme than the primary plat.
  - d. The secondary plat has reduced lot sizes for the primary plat.
4. Review and Approval: The Executive Director shall review the secondary plat for compliance with the primary plat and any conditions of the primary approval and shall make one of the following decisions:
- a. If the Executive Director determines that the application and plat are in substantial conformity with the primary plat and any conditions of approval attached thereto; shall allow the granting of secondary approval to the plat. The Executive Director shall make written findings of his decision to grant secondary approval for the plat of the subdivision, and he shall submit the plat to the Plan Commission President for a signature, at the next regular scheduled meeting, as new business before the board.
  - b. If the Executive Director determines that the application and the plat are not in substantial conformity with the primary plat, he shall deny, with written findings, the secondary approval to the plat. The applicant shall be provided with a copy of the decision and written findings. The President of the Plan Commission shall sign the decision.
5. No notice or hearing is required for secondary approvals. But secondary approval may be granted only after thirty (30) days after primary approval has been granted.
6. Length of Approval: Secondary Approval of a minor subdivision of a minor subdivision shall be valid for a period of six (6) months from the date of such approval. If the subdivision is not recorded before the expiration of six (6) months, it shall become null and void.
3. No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after secondary approval has been given by the Executive Director and the Plan Commission President has signed the Certificate of Approval, unless said plat is resubmitted to the Executive Director and such change(s) are approved.

#### **SECTION 81.11: ADMINISTRATIVE DIVISIONS**

---

##### **A. GENERAL**

1. Administrative divisions are subject only to the agreement of the Executive Director that such division is within one of the categories included in the definition of “administrative division” in Section 81.04 of this Ordinance. Replats or resubdivisions which meet the conditions of administrative divisions may also be considered under the terms of this Section. The requirements for qualification as an

administrative division cannot be waived under the procedures outlined in Section 81.17.

2. Administrative divisions are not subject to the subdivision procedures of these regulations beyond the requirements set forth below. However, administrative divisions are subject to the development standards set forth in the Zoning and Subdivision Control Ordinances (e.g., height, bulk, area, means of access, density, etc). All lots created through the administrative division process must comply with such development standards in order to be developed or improved. Furthermore, divisions that would result in the amendment of a recorded subdivision plat are subject to the procedures and regulations for subdivision plat amendment and/or vacation and are not eligible for administrative division.

**B. SUBMISSION MATERIALS**

The following materials shall be submitted by an applicant for approval of an administrative division.

1. Application signed by the owner(s) of record of all property involved in the subdivision.
2. A drawing prepared in accordance with the specifications set forth in Section 81.08[C] for recordable plats, showing the property involved in the subdivision, indicating the area of each lot or parcel in acres (for parcels larger than 20,000 square feet) or square feet and indicating the configuration of the property and any easements thereon before and after the proposed administrative division.
3. Required approval certificates (see Appendix)
4. For removal of interior lot lines, a legal description of the property and the new lot number(s).
5. For removal of platted easements, signed and notarized letters of approval of the proposed action by all utilities having an interest in such easements, and in the case of drainage or access easements, any neighboring property owners affected by such easements. A notation shall be placed on the plat indicating that the easement has been vacated.
6. For changes in the notations on a previously approved plat, an explanation of the reason(2) for the changes. IF the staff finds that such changes have a significant effect on the subdivision as previously approved, the staff shall require such changes to be decided by the Plan Commission.
7. For division by court decree, a copy of the decree showing by legal description how the land is to be divided.
8. Sale or Exchange of Tracts between Adjoining Land Owners
  - a. For sale and exchange of adjoining land where one or more of the affected parcels is platted, a legal description and indication on the drawing of the tract to be divided and the tract to be added and certification by a registered land surveyor that monuments have been or will be set to indicate the relocated property lines. If the land involved in the subdivision has not been monumented, no monumentation is required.

- b. For sale or exchange of adjoining platted land, a legal description and indication on the drawing of the tract to be divided and the tract to be added.
  - c. For subdivision where the purpose is to resolve the boundary dispute or to establish a mutually agreed upon boundary line, an affidavit signed by all affected property owners stating the purpose of the subdivision.
  - d. At the time that an administrative division as defined in Section 81.04 is submitted for approval, the submission shall include quitclaim or warranty deed(s) containing the legal description for each parcel of property for which ownership is transferred within and by said Administrative division.
9. For corrections of legal descriptions, an affidavit signed by the affected owners stating that the descriptions, an affidavit signed by the affected owners stating that the description was in error, and a corrected legal description. Such corrections shall be recorded, and an appropriate notation shall be placed on the previously recorded plat.
  10. For dedication or granting of easements for purposes other than access, a legal description. Such easements shall be recorded, and an appropriate notation shall be placed on the recorded plat.
  11. For dedication of right-of-way or access easements, a legal description and a plat showing the parcels and the location of the right-of-way easement. In addition, for right-of-way dedication, certification by a registered land surveyor that monuments will be set indicating the relocating property lines.
  12. For division of a building site containing an existing farm from an agricultural tract, evidence, that the dwelling has been on the site since February 1, 1989.  
For a family division, the division shall be approved only if the Executive Director is satisfied that:
    - a. Only one lot is created for transfer by sale or gift to each family member.
    - b. The subdivider has not previously divided any other land within the county by family division for transfer by sale or gift to the same family member.
    - c. Each lot proposed to be created complies with all applicable requirements of the zoning and subdivision control ordinances.
    - d. The family division is not sought for the purpose of circumventing the requirements of this chapter applicable to subdivisions.

#### C. Review Procedure for Administrative Divisions

1. The staff has been assigned by the Plan Commission to review and decide administrative division petitions. In the event of any uncertainty as to compliance or classification of any division, the staff shall forward such division to the Plan Commission for consideration as a subdivision plat. 2.
2. Review: The executive director shall review the division for compliance with the Area Subdivision Control Code and the Area Zoning Code of Franklin County, Indiana.

Approval may be granted to an administrative division by the staff without public notice and hearing.

D. Appeal

Appeal shall be governed in accordance with the following:

1. Initiation of Appeal: Any final decision of the staff may be appealed to the Plan Commission. The appeal shall be directed to the Plan Commission, and shall be filed with the Plan Commission staff.
2. Public Hearing: Appeal to the staff final decision shall be heard by the Plan Commission at a regularly scheduled public hearing, or in accordance with Commission Rules at a special meeting of the Plan Commission. Said hearing shall take place within forty-five (45) days after the filing of an appeal with the Plan Commission staff, and the Plan Commission shall render its written final decision within fifteen (15) days after such hearing. With the consent of the applicant and the Plan Commission, said hearing day may be extended.
3. Plan Commission Decision: A final decision of the Plan Commission may be appealed to the Circuit Court or Superior Court of Franklin County, Indiana. Said appeal shall be through a Petition for Writ of Certiorari filed with the clerk of the appropriate court within thirty (30) days after the date of such final decision. Said petition shall in all respects conform to Indiana Law.

E. APPROVAL CERTIFICATE

The Executive Director is authorized to sign the approved administrative plat.

F. LENGTH OF APPROVAL FOR ADMINISTRATIVE DIVISIONS

The approved administrative division and any deed as required by this Section shall be recorded in the Franklin County Recorder's office within 120 days of certification by the Planning Director. Any such subdivision, deed(s) and certification not recorded within that period shall become null and void.

**SECTION 81.12: REPLATS AND VACATIONS**

---

A. REPLATS

Any revision to an approved secondary plat or amendment to a recorded plat shall be approved by the Plan Commission by the same procedure, rules and regulations as for a new subdivision, whether minor, major or administrative. For the purposes of this Ordinance, a replat shall include:

1. any change in any street layout or any other public improvement;
2. any change in any lot line;
3. any change in the amount of land reserved for public use or the common use of the owners; and
4. any change in any easement shown on the approved plat.

B. PLAT VACATION

Pursuant to Indiana Code 36-7-3-11, as amended, the owner or owners of land in any approved subdivision plat may petition to the Plan Commission to vacate all or part of the plat under their ownership.

#### 1. Petition to Vacate.

A petition to vacate shall be filed with the Plan Commission staff and must, at a minimum:

- a. state the reasons and circumstances prompting the request for the vacation.
- b. specifically describe, including legal descriptions, the property in the plat proposed to be vacated: and
- c. give the name and address of each owner of land in the plat.

#### 2. Public Hearing

- a. Within thirty (30) days of the receipt of a properly completed petition for vacation, the Plan Commission Staff shall set a date for a public hearing before the Plan Commission.
- b. After the Plan Commission Staff has announced a date for a hearing before the Commission, it shall:
  - (1) Notify the applicant in writing;
  - (2) Require that the petitioner give notice of the hearing by publication in accordance with I.C. 5-3-1; and
  - (3) Require that the petitioner provide for due notice to interested parties at least ten (10) days before the date set for the hearing, all in accordance with the Rules of Procedure of the Plan Commission.
- c. The Plan Commission shall hold the public hearing according to its rules. Each owner of land in the approved plat shall be given the opportunity to comment on the petition.

#### 3. Decision

- a. At the close of the public hearing the Plan Commission shall approve or deny the petition. The Plan Commission may only approve the petition upon the determination that:
  - (1) conditions on the platted area have changed so as to defeat the original purpose of the plat;
  - (2) it is in the public interest to vacate the requested area in the plat; and
  - (3) the value of that part of the plat not owned by the petitioner will not be diminished by the vacation.
- b. If the Plan Commission approves the vacation it shall make written findings stating, at a minimum, that the aforementioned criteria have been met. The President of the Plan Commission shall sign the decision approving the vacation and the revised plat. The Plan Commission may impose reasonable conditions as part of its approval. The decision of the Plan Commission along with the revised plat showing those lands vacated shall be recorded in the Office of the Franklin County Recorder.



- c. If the Plan Commission denies the vacation, it shall make written findings stating, at a minimum, that the aforementioned criteria have not been met. The Plan Commission shall provide a copy of its decision to the petitioner.

### **Section 81.13: Principles And Standards Of Design**

---

The plat of the subdivision shall conform to the following principles and standards of design:

#### **A. GENERAL**

1. In determining whether an application for the primary and secondary plats of a subdivision shall be granted, the Commission shall determine that the subdivision plat is in conformance with the principles and standards which are generally exhibited in the Comprehensive Plan and that the plat conforms to the principles and standards required in this Code.
2. Whenever the applicable requirements of the Zoning Ordinance are higher or more restrictive, those requirements shall control any application for plat approval.
3. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots or similar conditions which, if preserved, will add attractiveness and value to the proposed development.
4. Due consideration shall be given to the prevention of air and stream pollution, proper treatment and disposal of refuse and other waste, and the elimination of other blighting characteristics.
5. The subdivision layout shall be of such a character that it protects the health, safety and general welfare of the residents in the County.
6. Cluster subdivisions shall identify a conservation theme or themes. This theme shall be identified at the time of the initial application. Conservation themes may include, but are not limited to, forest stewardship, water quality preservation, farmland preservation, natural habitat restoration, viewshed preservation, or archeological and historic properties preservation. The Plan Commission shall have the ability to specify which areas shall be preserved.

#### **B. STREETS**

1. General Street Standards
  - a. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
  - b. Proposed streets shall be adjusted to the contour of the land so as to produce useable lots and streets of reasonable gradient.
  - c. Where appropriate, streets shall be extended to the boundary of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity and future connection to adjacent development.
  - d. Wherever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivision, an extension of the street or alley shall be platted within the proposed subdivision to the prescribed width of the existing street or alley or to the width required by this Ordinance, whichever is greater.

- e. Only one street, driveway or point of vehicle access may be permitted and encouraged from a subdivision onto an arterial or feeder street; provided, however, that any such street, driveway or point of vehicle access shall not be permitted if unreasonably harmful to the health, safety, and general welfare of the public.
  - f. Individual lots in a single family subdivision shall not derive access from collector or arterial streets.
  - g. Street standards in a cluster subdivision shall be the same as those required for any conventional subdivision developed under this ordinance.
2. Specific Street Standards
- a. Where streets cross other streets, every effort shall be made to line up roadways so that no jogs are created.
  - b. Cul-de-sacs shall not exceed five hundred (500) feet in length.
  - c. Widths of arterial and collector (feeder) streets shall conform to the widths specified in Section 81.15[B].
  - d. The minimum right-of-way of residential streets, including marginal access streets or cul-de-sacs, shall be fifty (50) feet. All cul-de-sacs shall terminate in a circular right-of-way, with a minimum diameter of one hundred and twenty (120) feet for the turning of all vehicles conveniently within the right-of-way.
  - e. The center lines of streets should intersect as nearly at right angles as possible.
  - f. At intersections of local streets and alleys, property line corners shall be rounded by arcs of at least a twenty (20) foot radius or by chords of such arcs.
  - g. At intersections of collector or arterial streets, the property line corners shall be rounded by arcs with a radius of not less than thirty (30) feet or by chords of such arcs.
  - h. If the smaller angle of the intersection of two streets is less than sixty (60) degrees, the radius of the arc at the intersection of property lines shall be increased as deemed advisable by the Commission.
  - i. Intersections of more than two (2) streets at one point shall be avoided.
  - j. Where parkways or special types of streets are involved, the Commission may apply special standards to be followed in the design of such parkways or streets.
  - k. Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way or a highway designated as a "Limited Access Highway" by the appropriate highway authorities, provision shall be made for a marginal access street or a parallel street at a distance acceptable for the appropriate use of the land between the highway or railroad and such streets
  - l. Horizontal visibility on all streets must be maintained along the center lines as follows:
    - (1) Arterial streets: Four hundred and fifty (450) feet.
    - (2) Collector streets: Three hundred (300) feet.

- (3) Residential streets: One hundred fifty (150) feet for streets with a design speed of twenty-five miles per hour (25 mph) or less; Two hundred (200) feet for streets with a design speed of thirty miles per hour (30 mph) or greater.
- m. Curvature measured along the center line shall have a minimum radius as follows:
  - (1) Arterial streets: Five hundred (500) feet.
  - (2) Collector streets: Three hundred (300) feet.
  - (3) Residential streets: Two hundred (200) feet for streets with a design speed of twenty-five miles per hour (25 mph) or less; Three hundred (300) feet for streets with a design speed of thirty miles per hour (30 mph) or less.
- n. Between reversed curves on arterial streets, there shall be a tangent of not less than one hundred (100) feet, and on collector and residential streets such tangent shall not be less than forty (40) feet.
- o. Maximum grades for streets shall be as follows:
  - (1) Arterial streets: Not greater than six percent (6 %).
  - (2) Collector and residential streets and alleys: Not greater than ten percent (10%).
- p. The minimum grade of any street gutter shall not be less than five-tenths percent (0.5%).
- q. Proposed streets that are extensions of or in alignment with existing streets shall bear the same name as that borne by the existing street.
- r. Maintenance of Private Streets: Common and joint maintenance and the utilization by all owners, present and future, of the lots served by a private street shall be made a part of the covenants of the subdivision to each of the lots stipulating adequate maintenance and ensuring continuous access.
- s. Where topographical constraints cause a practical difficulty in the adherence to the regulations listed above, the Plan Commission may approve an alternative street design through a waiver of the subdivision standards in accordance with Section 81.17. In addition to the criteria for a waiver stated in Section 81.17[B], the Plan Commission shall also consider the following when approving waivers for streets:
  - (1) In no event shall the dedicated right-of-way of a street be less than forty feet (40 feet),
  - (2) The maximum grade of streets may be increased to twenty percent (20%) but only for straight distances of less than one hundred fifty (150) feet, and
  - (3) The design of streets shall give careful consideration to horizontal visibility and curvature and to vision clearance at street intersections which will provide maximum safety of access under the site conditions; in no case shall a radius of curvature, measured on the centerline of the street, be less than eighty (80) feet.

#### C. BLOCKS

- 1. Blocks shall not exceed seven hundred (700) feet in length.

2. Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a limited access highway, an arterial street or a railroad right-of-way.

D. RESIDENTIAL LOTS FOR CONVENTIONAL SUBDIVISIONS

1. Lots shall have a minimum of 30 feet of frontage on a public street, a private street, or an acceptable common drive.
2. Side lines of lots shall be at approximately right angles to straight streets and approximately on radial lines to curved streets.
3. Double frontage lots should not be platted, except that along arterial streets, lots may face on an interior street and back on such thoroughfares, provided no access is granted from the arterial. In such conditions a planting strip, or a planting screen, at least ten (10) feet in width, shall be provided along the back of the lot and planted with trees and/or a combination of trees and shrubs to provide screening from the thoroughfare.
4. Widths and areas of lots shall not be less than the minimum standards prescribed by the Zoning Code for the district in which the subdivision is located.
5. The depth of any lot shall not be more than three (3) times the width of the lot. The lot width shall be measured along the minimum setback line established by the Zoning Ordinance.
6. Where topographical constraints cause a practical difficulty in the adherence to the regulations listed above, the Plan Commission may approve an alternative lot design through a waiver of the subdivision standards in accordance with Section 81.17, provided that such alternative lot design shall not be permitted to violate the minimum standards for lots as set forth in the Area Zoning Code without first obtaining a variance in accordance with Section 80.13.05 of the Zoning Code.

E. RESIDENTIAL LOT REQUIREMENTS FOR CLUSTER SUBDIVISIONS

1. Each lot shall be regularly shaped and meet or exceed the minimum lot size and lot width standards set forth below. Each lot shall have at least thirty (30) feet of frontage on a public or private road meeting the standards of this Code. Side lot lines extending from a road shall be approximately perpendicular or radial to the road's right-of-way boundary. Development standards for cluster lots shall be prescribed by the Zoning Code regulations for the district in which the subdivision is located.
2. All lots shall take access from interior local streets, including existing farmsteads to be preserved.
3. Lots and development envelopes shall be configured to minimize loss of woodlands.
4. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures (see Zoning Ordinance). The size and character of such buffers shall be regulated by the Franklin County Zoning Ordinance.
5. Development envelopes should not be in visually prominent areas.
6. A 30 foot setback shall be maintained around existing natural water areas.

7. Landscape plantings should be used to increase infiltration and decrease runoff.
8. Natural open drainage systems shall be preserved.
9. Residential Cluster Siting Standards for cluster subdivisions
  - a. All residential lots and dwellings shall be grouped into clusters. Each cluster shall contain no more than twenty (20) dwelling units and no less than four (4) units.
  - b. Residential clusters shall be located to minimize negative impacts on the natural, scenic, and cultural resources of the site and conflicts between incompatible uses.
  - c. Residential clusters shall avoid encroaching on rare plant communities, high quality sites, or endangered species.
  - d. Whenever possible, common or privately held open space shall connect with existing or potential open space lands on adjoining parcels.
  - e. Residential clusters should be sited to achieve the following goals, to the extent practicable:
    - (1) Minimize impacts to soils best suited for crops and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
    - (2) Minimize disturbance to woodlands, wetlands, grasslands, and mature trees.
    - (3) Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
    - (4) Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
    - (5) Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
  - f. Landscaping around the cluster may be necessary to reduce off site views of residences.

F. EASEMENTS

Where alleys are not provided, easements for utilities shall be provided. Such easements shall have minimum widths to meet the requirements of the utilities serving the property. Before determining the location of easements, the plan shall be discussed with the local public utility companies to assure their proper placing for the installation of services.

G. BUILDING SETBACK LINES

Shall be provided as prescribed by the Area Zoning Code of Franklin County, Indiana.

**Section 81.14: Open Spaces**

---

A. COMMON OPEN SPACE

Areas of common open space shall be owned and maintained under one of the alternatives listed in Section 81.14[C], as approved by the Franklin County Plan Commission. The uses within the common open space shall be accessible to all the residents of the development. When such common open space is required by this Code,

such as in a cluster subdivision, the required common open space shall be undivided and restricted in perpetuity from future development.

B. REQUIRED OPEN SPACE IN CLUSTER SUBDIVISIONS

1. Common open space shall be designated as part of the development. The minimum required common open space shall be forty percent (40%) of the gross acreage.
2. When determining which areas of a parcel to preserve as common open space, the following considerations shall be made:
  - a. First priority will be given to intact natural communities, rare and endangered species, environmental corridors, natural and restored prairies, significant historic and archaeological properties, and steep slopes.
  - b. Second priority will be given to areas providing some plant and wildlife habitat and open space values.
  - c. Third priority will be given to areas providing little habitat but providing scenic viewsheds from public roadways, recreation, or a sense of open space.
3. The following areas or structures may be located within the common open space area and may therefore be counted toward the overall common open space percentage required.
  - a. Parking areas for access to and use of the common open space developed at a scale limited to the potential users of the common open space.
  - b. Privately held buildings or structures provided they are accessory to the use of the common open space.
  - c. Shared septic systems and shared potable water systems.
4. Road rights-of-way shall not be counted towards the required minimum common open space.
5. No more than fifty percent (50%) of the required common open space may consist of water bodies, ponds, floodplain, or wetlands.
6. No more than fifty percent (50%) of the required common open space shall be utilized for active recreation purposes, in order to preserve a reasonable portion of natural areas on the site.
7. That portion of common open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails, when provided, shall be designed to avoid breaking up these areas.
8. Accessible common open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archeological sites.
9. Safe and convenient pedestrian access to the common open space from all lots not adjoining the common open space shall be provided.

C. Ownership And Maintenance Of Open Space and Other Common Facilities

1. Alternatives. All designated common open space and common facilities shall be owned and managed by one or a combination of the following:
  - a. A homeowners' association
  - b. A nonprofit conservation organization
  - c. An individual who will use the land for common open space purposes as provided by a conservation easement
2. Homeowners Association. A homeowners association shall be established if the common open space is proposed to be owned by a homeowners' association. Membership in the association shall be mandatory for all purchasers of homes in the development and their successors.

The homeowners' association bylaws, guaranteeing continuing maintenance of the common open space and other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners association shall be submitted for approval to the Plan Commission as part of the information required for the preliminary plat. The homeowners association bylaws or the declaration of covenants, conditions and restrictions of the homeowners association shall contain, at a minimum, the following information:

- a. The legal description of common land;
  - b. A description of common facilities;
  - c. The restrictions placed upon the use and enjoyment of the lands or facilities (such as noise, lighting, hours of operation, etc.);
  - d. Persons or entities entitled to enforce the restrictions;
  - e. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums;
  - f. A mechanism for resolving disputes among the owners or association members;
  - g. The conditions and timing of the transfer of ownership and control of land facilities to the association; and
  - h. Any other matter that seems appropriate.
3. A nonprofit Conservation Organization. If the common open space is to be held by a nonprofit conservation organization, the organization must be acceptable to the County. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
4. Individual Ownership. An individual may hold fee title to the land, provided that the use of land is restricted to common open space or agriculture through a conservation easement. Such easement may be held by the owner or by a nonprofit or other qualified organization.

5. Maintenance Plan. Every subdivision with required common open space, such as a cluster subdivision, must include a plan that provides evidence of a means to properly manage the common open space in perpetuity and evidence of the long-term means to properly manage and maintain all common facilities, including any storm water, sewage, and water facilities. The plan shall be approved by the Franklin County Plan Commission as part of the secondary plat approval.

a. The plan shall do the following:

- (1) Designate the ownership of the common open space and common facilities in accordance with Subsection [C][1] above.
- (2) Establish necessary regular and periodic operation and maintenance responsibilities.
- (3) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
- (4) Include a land stewardship plan specifically focusing on the long-term management of common open space lands. This stewardship plan shall include a narrative describing:
  - Existing conditions including all natural, cultural, historic, and scenic elements in the landscape.
  - The proposed end state for each common open space area; and the measures proposed for achieving the end state.
  - Proposed restoration measures, including measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems.
  - The operations needed for maintaining the stability of the resources, including: mowing schedules, weed control, planting schedules, clearing and clean up.

- b. In the event that the organization established to own and maintain the common open space and common facilities, or any other successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition, such organization shall be considered in violation of this Ordinance, in which case the bond, if any, may be forfeited, and any permits may be revoke or suspended. The County may enter the premises and take corrective action.

The costs of corrective action by the County shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on such properties. The County, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien upon the affected properties in the office of the County Recorder.

- d. Maintenance plans can be amended by the owner identified under Subsection [C] [5] [a] [1] with the approval of the Plan Commission.



## **Section 81.15: Standards Of Improvements**

---

Before secondary approval may be granted, the plat of the subdivision shall conform to the following standards of improvements which shall be installed under the supervision of an inspector whose qualifications meet the approval of the Executive Director, and the cost of such inspection shall be borne by the subdivider.

### **A. MONUMENTS AND MARKERS**

Monuments and markers shall be placed so that the center of the bar or marked point shall coincide exactly with the intersection of lines to be marked and shall be set so that the top of the monument or marker is level with the finished grade.

1. Monuments shall be set:
  - a. At the intersection of all lines forming angles the boundary of the subdivision.
  - b. At the intersection of street property lines.
2. Markers shall be set:
  - a. At the beginning and ending of all curves along street property lines.
  - b. At all points where lot lines intersect curves, either front or rear.
  - c. At all angles in property lines of lots.
  - d. At all other lot corners or boundary angles not established by a monument.
3. Monuments shall be of stone or concrete (which may be poured in place), with minimum dimensions of four (4) inches by four (4) inches by thirty (30) inches, set vertically in place. They shall be marked on top with a brass plug, or iron or copper dowel, at least three-eighths (3/8) inch thick, set flush with the top of the monument, deeply scored on top with a cross. Markers shall consist of iron pipes or steel bars at least thirty (30)

### **B. STREETS**

Streets (and alleys, where provided) shall be completed to grades shown on plans, profiles, and cross-sections provided by the subdivider and prepared by a registered professional engineer and approved by the Commission.

1. Street right-of-way width shall be provided in accordance with the following:
  - a. Arterials 120 feet
  - b. Collectors (feeders) 110 feet
  - c. Local Roads 50 feet
2. The streets shall be graded, surfaced, and improved in the manner prescribed in the most current issue of the "Standard Specifications of the Indiana Department of Transportation," latest issue (hereinafter referred to as the Standard Specifications). A copy of the current Standard Specifications is on file in the office of the Franklin County Area Planning Department.

3. Residential streets shall be surfaced to a minimum width of thirty-two (32) feet, measured back to back of the curb. Streets classified as "arterial" or "feeder" shall be surfaced to a minimum width of forty (40) feet. Curb and gutter is added to the minimum surface. (See subsection [H] herein.) The Commission shall require the subdivider to provide street surfacing on streets which are proposed to be extensions of existing paved streets, and which exceed the minimum dimensions set forth above, to the full width of the existing paved street. Alleys shall be surfaced to their full width. Cul-de-sac turn-arounds shall be paved to a diameter of one hundred and ten (110) feet.
4. Private streets that serve four lots or less may have a gravel surface. Subdivisions with more than four lots shall have a paved street. Gravel roads should be constructed to the current road bed base standards of the County. Private streets that serve no more than one lot do not have to meet the County gravel or pavement standard. However, should that drive ever serve more than one lot, the portion of the drive that serves more than one lot must be upgraded to County standards.
5. Cul-de-sacs. All cul-de-sac streets shall have a 120 foot diameter right-of-way with a fifty-five (55) foot paved radius measured to the back of the curb of the cul-de-sac. Any unpaved portion of the cul-de-sac, such as a landscaped island shall not be dedicated to the county and must be maintained by the developer or Homeowners Association. There shall be no parking of any type of motorized vehicles or non-motorized vehicles nor the placement of any object which may be an impediment to snow removal.
6. The subgrade shall be prepared in compliance with Section 207 of the Standard Specifications.
7. The subbase, where required, shall be prepared in compliance with Section 304 of the Standard Specifications. Special subbase drainage in areas of cuts, swales and fills shall be as set out in the approved plans and specifications.
8. The street surface shall be of Portland Cement Concrete materials and construction shall be in accordance with Section 501 of the Standard Specifications and subparagraph 1 below. Hot Asphalt Concrete materials and construction shall be in accordance with Section 402 of the Standard Specifications and subparagraph (b) below. In case of a proposed alternative method, discrepancy, omission or duplication in the required specification standards, the decision of the Franklin County Highway Engineer or respective Town Board shall be sought and considered final.
  - a. Rigid Type Pavement (Portland Cement Concrete)
    - (1) Minimum design characteristics of street pavement shall be as follows:
      - (a) 6% air entrained
      - (b) 28-day compressive strength = 4000 p.s.i.; 28-day flexural strength = 550 p.s.i.
      - (c) Thickness to conform to the following schedule:
 

<u>Thickness</u>			
<u>Residential Collector/ Arterial Feeder</u>			
Concrete	6 "	7 "	8 "

Aggregate Subject to 4" 4"  
e review by the  
Franklin County  
Highway  
Engineer or  
respective Town  
Board.

(2) Portland Cement Concrete pavement shall be in accordance with Section 501 of the Standard Specifications. In addition the following shall govern and be met:

- (a) The subgrade shall conform to Section 501.05 and Section 207 of the Standard Specifications. Subgrade shall be moist but not muddy at the time the concrete is placed. If required, it shall be sprinkled, but the method of sprinkling shall be such that mud or pools of water will not be formed,
- (b) Subbase, if required, shall meet the above minimum thickness requirements and conform to Section 304 of the Standard Specifications.
- (c) Weakened plane or dummy transverse contraction joints shall be placed not to exceed twenty (20) foot spacing. A transverse contraction joint shall be placed at every catch basin and manhole in line of pavement. The location of manholes, etc., in the pavement shall determine the exact location of joints. All joints must extend throughout sidestrips to full width of pavements. Transverse contraction joints will be a groove and conform to Section 501.04 of the Standard Specifications.
- (d) Whenever the width between forms of the pavement under construction is greater than thirteen (13) feet, longitudinal joints shall be constructed so as to divide the pavement into strips not to exceed thirteen (13) feet each. Work shall conform to Section 501.14 of the Standard Specifications.
- (e) Expansion joints, with approved dowel bar assembly, shall be placed at intersections where shown on the plans and shall conform to Section 501.15.
- (f) Concrete shall be machine finished except on widened portions, intersections, or other places where hand finishing will be permitted if authorized. Finishing machines or vibrating strike-boards of design other than as specified in the Standard Specifications will be permitted only if work of equal quality as set out in these specifications is obtained. Authorization prior to construction is required. Work shall conform to Section 501.15 of the Standard Specifications.

- (g) Curing with approved impervious membrane or sealing compounds shall be required, conforming to Section 501.17 of the Standard Specifications.
- b. Hot asphalt Concrete Pavement
  - (1) Thickness of a proposed asphalt residential street:
    - (a) Surface asphalt: one (1) inch.
    - (b) Base asphalt: three (3) inches
    - (c) Total asphalt: four (4) inches. Aggregate subbase: four (4) inches of suitable aggregate base and two (2) inches of suitable finish stone. See Section 303 of the Standard Specifications.
  - (2) Asphalt pavement shall be in accordance with Section 402 of the Standard Specifications. In addition, the following shall be met:
    - (a) The subgrade shall conform to Section 402 of the Standard Specifications.
    - (b) Subbase, if required, shall meet the above minimum thickness requirements and conform to Section 402 of the Standard Specifications.
    - (c) Base, binder and surface courses shall meet the above minimum thickness requirements and conform to Section 402 of the Standard Specifications.
    - (d) Seal coats, prime coats and tack coats shall conform to Section 402 and Sections 407, 408 and 409 (as applicable) of the Standard Specifications.
- 9. Samples for testing purposes shall be taken as required by the appropriate section of the Standard Specifications. All tests shall be performed in accordance with the appropriate section of the Standard Specifications. All testing shall be performed by a certified Indiana licensed engineer. All testing costs shall be paid by the developer. A complete certified copy of all records shall be provided to the Town Board or County Highway Engineer, as the case may be. The Town or County Highway Engineer reserves the right to core the pavement before acceptance.
- 10. Prior to placing the street and alley surfaces, adequate subsurface drainage pipe, when required, shall be coated corrugated pipe or a similar type not less than twelve (12) inches in diameter approved by the Commission. Upon the completion of the street and alley, improvements, plans and profiles as built shall be filed with the Commission.
- 11. No streets will be considered for a dedication hearing until after the plat of the subdivision has been recorded along with a three (3) year performance bond in the County Recorder's Office.
- 12. All unsightly and objectionable materials shall be removed from the right-of-way before acceptance. All trees, brush, and stumps shall be removed from the edge of pavement to the back of the side ditch slope. The entire right-of-way shall be in neat and presentable condition with all erosion control measures being utilized.

C. DRAINAGE FACILITIES

1. Prior to the construction of street or alley surfaces and pavements, adequate drainage facilities shall be installed by the subdivider, according to plans furnished by the subdivider prepared by a registered professional engineer or a registered land surveyor and approved by the Commission.
2. Land development and other drainage activities should reduce runoff rates to protect downstream properties from the immediate impacts of development. Great attention should be given to the capacity and condition of the downstream receiving waterway in terms of its ability to accept runoff from the developed, or otherwise altered, upstream property.
3. Land development and other drainage activities should not increase the back-up of stormwater onto other public or private property unless legal administrative provisions (such as an easement) are in place to accommodate this occurrence. This provision should be applied to both normal and flooding conditions. This provision should be
4. A storm drainage analysis based upon a twenty-five-year (25), twenty-four (24) hour rainfall shall be used as the basis for the drainage system. A copy of the analysis is to be submitted to the Commission with the drainage facility plans. Pipe used for drainage shall be of coated corrugated metal, concrete or vitrified clay of an approved design, size and strength to meet the requirements of the specific conditions which may be encountered. Minimum diameters of pipe to be used shall be as follows:
  - a. Roadway cross-drains 12"
  - b. Entrance culverts 12"
  - c. Perforated under-drains 8"
5. Where curbs and gutters are not provided in the street, shallow swales with low points at least three inches (3") below the subgrade of the pavement may be required by the Commission.
6. Upon completion of the street improvements, a minimum of two (2) sets of as-built plan and profiles shall be filed with the Commission.

D. SEWERS

1. The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with one of the three following procedures:
  - a. Public Collection System. In all cases where such is possible, the developer shall construct a sanitary sewer system connected to a municipal or private sewage treatment provider.
    - (1) The plans for the system shall be approved by the respective Town Board or the County Sanitarian, depending on the location of the plat, and shall be designed and constructed in accordance with the "Franklin County Area Sanitary Sewer Design and Construction Specifications."
    - (2) Service laterals shall be installed between the street main and the property line before the street is paved.

- b. Local Treatment System. Where it is not possible to connect the subdivision sanitary sewer system to a municipal or private sewage treatment provider, as determined by the Commission, the subdivider shall construct a local treatment system consisting of the necessary house laterals, service mains, and interceptors required to conduct the subdivision's sanitary sewage to a single treatment facility. All aspects of such system including the treatment facility, shall be designed with the requirements of the "Franklin County Area Sanitary Sewer Design and Construction Specifications," and the "Franklin County Area Recommended Standards for Sewage Works," and constructed by the subdivider in accordance with the requirements of the respective Town Board or the County Highway Engineer, as the case may be.
  - c. Private Disposal System. Where alternatives (a) and (b) above are not practical, the Commission may permit the subdivider to install on each lot an individual sewage disposal system consisting of a septic tank and tile absorption field or other approved disposal system. Such systems shall be designed and constructed by the subdivider, in accordance with the "Recommended Standards for Individual Sewage Systems" and the requirements of the Franklin County Sanitation and the Indiana Department of Environmental Management. In no case, however, shall private disposal systems be permitted where soil conditions exist which would prevent percolation of effluent.
- 2. The plans for the installation of the sanitary sewage facilities shall be provided by the subdivider, prepared by a registered professional engineer, and approved by the Indiana Department of Environmental Management and the Franklin County Sanitation.
- 3. The Franklin County Sanitarian may only consider a septic system permit if the conditions of the property are acceptable for such a system. Where soil conditions are poor for the use of an on-site system, and where a municipal (or private) sewer is within 300 feet of the property line, the Sanitarian may require the petitioner to connect to the nearest available sewer line.
- 4. Where a major or cluster subdivision cannot connect to a private or municipal sewage treatment provider, the following options shall be encouraged: clustered septic systems, step systems, and package treatment plants.

#### E WATER

- 1. The subdivider shall provide the subdivision with a complete water main supply system, which shall be connected to a municipal or private water utility system; except, that when such water supply is not available as determined by the Commission the subdivider shall provide an individual water supply on each lot in the subdivision in accordance with requirements of the Franklin County Sanitation. The water supply system shall be designed and constructed in accordance with the water utility providers standards for water works.
- 2. The plans for the installation of a water main supply system shall be provided by the subdivider and approved by the respective municipal Water Department and the Franklin County Sanitation. Construction of water mains and house services to be

placed within the improved portion of the street right-of-way shall be completed prior to the placement of the surface improvements.

3. Water facilities in a cluster subdivision shall be the same as those required for any conventional subdivision developed under this ordinance.

F. GAS

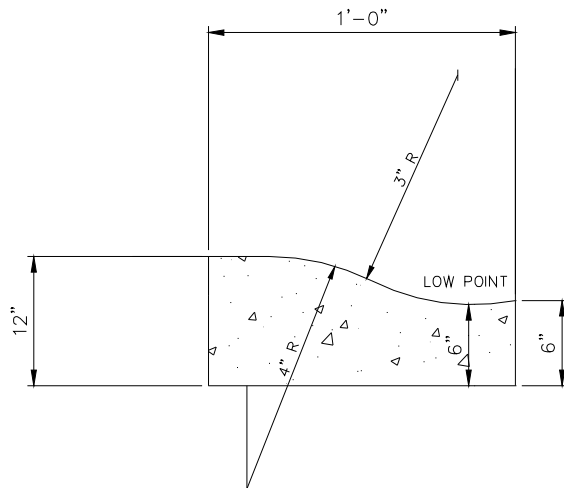
The installation of gas lines, where available, shall be as provided by the respective Gas utility.

G. IMPROVEMENT CREDIT PROCEDURE

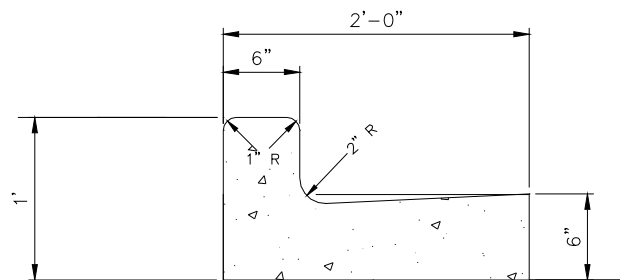
Improvements required in this Section to be installed by the subdivider, which are of a public utility nature (specifically paragraphs [C], [D], and [E] herein) may provide benefits to other properties in the vicinity of land to be subdivided. Upon the installation of such improvements which cross or adjoin other properties and can be used by such properties, the subdivider and the respective Town Board or the Board of County Commissioners, (depending on the location of the plat) may agree that any new user or users who connect within a period of ten (10) years following the installations shall pay to the Town or County, as the case may be, a fee in an amount agreed upon by the subdivider and the Town or County. Said fee shall be credited and paid to the subdivider.

H. CURB AND GUTTER.

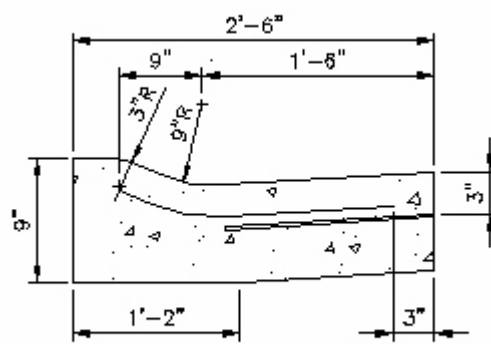
1. Wherever a proposed subdivision lies adjacent to or between other subdivisions which have been provided with curb and gutter, or whenever the proposed subdivision will average more than three and one-half (3 1/2) lots per net acre included in the subdivision, the Commission shall require curb and gutter to be installed on each side of the street surface. The Commission shall require curb and gutter to be installed on the downslope side of the street surface in a subdivision located on a hillside. Gutters may also be required along the boundaries of parking bays as necessary for drainage control or public safety. Plans for the installation of the curb and gutter shall be approved by the respective Town Board or by the Franklin County Highway Engineer, as the case may be.
2. The curb and gutter shall be of one of the construction types shown below and shall be constructed according to the following specifications:
  - a. The base for the curb and gutter shall be well-compacted on the existing base or grade.
  - b. The minimum specifications shall be as shown for the three types of cross-sections below.
  - c. All concrete used in the curb and gutter shall meet the Standard Specifications.



INTEGRAL OR ROLLED CURB GUTTER



COMBINED CURB AND GUTTER



STANDARD LIP GUTTER



I. SIDEWALKS

1. Wherever a proposed subdivision lies adjacent to another subdivision which has been provided with sidewalks, and whenever the proposed subdivision will average more than three and one-half (3 1/2) lots per net acre included in the subdivision, the Commission shall require sidewalks to be installed on each side of the street. In subdivisions located on a hillside, sidewalks are required to be installed on the up-hill sides of all streets, and may be required at points along the downslope side of streets as deemed necessary by the Commission in order to promote public safety. On streets in the vicinity of schools or other public buildings, which, in the Commission's judgment would be necessary for the safety and welfare of pedestrians, the Commission may require sidewalks.
2. If sidewalks are provided, they shall be constructed of Portland Cement Concrete, at least four (4) inches thick, and four (4) feet wide, and the edge of walks adjacent to the property line of the street shall be placed at least one (1) foot from the property line.
3. If sidewalks are not provided, the street grade shall be completed so the additional grading would not be necessary for any future provision of sidewalks.
4. Crosswalks within blocks, as required in paragraph (H) of Sec. 81.15. Principles and Standards of Design, shall be improved with at least a four (4) foot walk of Portland Cement or Asphalt Concrete four (4) inches thick.

J. STREET SIGNS

The subdivider shall provide the subdivision with acceptable street signs at the intersection of all streets.

K. DRIVEWAY ENTRANCES

1. The subdivider shall install approaches for each driveway connection to a street with a hard surface between the street roadway surface and the driveway, and when the street is provided with curb and gutter the subdivider shall install curb returns on the driveways.
2. Driveways shall be constructed so as not to impede the surface drainage system, and where curbs are not required, the subdivider shall provide one of the following types of improvement:
  - a. A corrugated iron pipe at least twelve inches (12") in diameter and twenty (20) feet in length to be placed for each driveway approach. The pipe shall remain unobstructed and functional.
  - b. A properly dipped or swaled concrete pavement twenty (20) feet in length, at least six (6) feet in width and six inches (6") thick at the entrance to each driveway, designed so as not to create a hazard to the under parts of automobiles.

**SECTION 81.16: NON-RESIDENTIAL SUBDIVISIONS**

---

A. GENERAL

Any proposed subdivision containing land that is zoned or otherwise intended to be used for commercial or industrial uses is subject to the design standards contained in this Section, in addition to those standards applying to all subdivisions of land.

B. ARRANGEMENT OF LOTS AND/OR BLOCKS

Proposed commercial or industrial parcels shall be laid out in such a manner as to provide safe access, harmonious arrangement of land uses, separation of vehicular and pedestrian traffic, areas for drainage runoff, and where applicable, retention areas, parking, landscape buffers, and utilities.

C. STREETS

If access will be required for large trucks and/or heavy loads, the Commission may increase the construction and design requirements. Roads serving primarily non-residential traffic, especially truck traffic, shall not normally be extended to the boundary of adjacent tracts used or zoned for residential purposes, nor shall primary residential roads be used for access to industrial subdivisions.

D. ALLEYS

Alleys shall have a right-of-way width of at least twenty (20) feet and a pavement width of at least sixteen (16) feet.

E. ADDITIONAL REQUIREMENTS

The following items shall be addressed, either through the lot design or through notations placed upon the plat.

1. Loading Docks and Parking: Loading docks, truck parking and/or truck turn-around areas shall be designed by the use of signs and pavement markings. These areas shall be separated from parking and access areas used by automobiles or pedestrian traffic. Public streets shall not be used for truck parking, standing or backing.
2. Fire Lanes: Fire lanes shall be required for all commercial and industrial structures at the discretion of The Fire Marshal. Fire lanes shall be marked by signs and pavement markings.
3. Parking Lots: Parking lots shall have a hard, dust-free surface and shall be designed to provide safe, well-defined points of ingress and egress. The Commission may require such physical barriers, pavement markings, signs, and landscaping as it deems necessary to properly channel traffic to designed parking entrances and exits.
4. Buffers: Subdivisions containing land rezoned for commercial or industrial uses shall contain landscaped buffer areas in accordance with the requirements of Section 80.10.02 of the Area Zoning Code of Franklin County.
5. Snow Storage: Developments which have parking, Loading, and driveway areas in excess of 40,000 square feet shall contain snow storage areas. Drainage plans shall include plans for the disposal of melt water.
6. Procedures: The procedure for approval of a commercial or industrial subdivision shall be the same as for any major division.

---

**SECTION 81.17:WAIVERS**

A. GRANTING OF WAIVERS

Where the subdivider can show that a provision of this Chapter of the Code would cause unnecessary hardship if strictly adhered to, and where, in the opinion of the Commission, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of such provision, the

Commission may authorize a waiver. Any waiver thus authorized is required to be entered in writing in the minutes of the Commission, and the reasoning on which the departure was justified shall be set forth.

B. CRITERIA FOR WAIVERS

In the exercise of its authority under this section, the Plan Commission shall grant waivers only upon finding all of the following:

1. The waiver will not be detrimental to the public health, safety, or general welfare.
2. The waiver will not adversely affect adjacent property.
3. The waiver is justified because of exceptional topographic or other physical conditions unique to the property involved and is not to correct mere inconvenience or financial disadvantage.
4. The waiver is consistent with the intent of this and other applicable ordinance and the Comprehensive Plan.
5. The condition necessitating the waiver was not created by the owner of the applicant.

C. APPLICATION

1. A request for a waiver shall be submitted in writing as part of the application for primary approval of a subdivision and shall be accompanied by the appropriate fee. Such request shall make specific reference to the section of the Ordinance from which such waiver is requested and shall state the reasons for the request, addressing the criteria in this Section.
2. The Plan Commission shall not consider waiver requests that have not been submitted to the Commission or Committee and reviewed by the Plan Commission staff at least one week prior to the meeting at which the petition is scheduled for a hearing.

D. DECISION BY THE PLAN COMMISSION

In approving or denying a waiver request, the Plan Commission shall make specific findings on each of the criteria in this Section. If the Commission approves a waiver request, it may impose such conditions as it deems necessary and proper to carry out the intent and purposes of this Ordinance.

**SECTION 81.18: REPEALER**

---

After the effective date of this Ordinance, all provisions of the Area Subdivision Control Code of Franklin County, Indiana, 1987, and all amendments thereof, are here by expressly repealed.

**SECTION 81.19: AMENDMENTS**

---

All amendments to this chapter of the code shall be in conformance with I.C. 36-7-4.

**SECTION 81.20: SEVERABILITY CLAUSE**

---

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction, to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof, other than the portion so declared to be invalid.

**SECTION 81.21: PENALTY**

---

- A. Any person held liable by a court of competent jurisdiction for a violation of the Area Subdivision Control Code of Franklin County, Indiana shall be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00) for each ordinance violation.
- B. For violations continued or renewed after the imposition of a fine in subsection [A] above, each day's violation shall constitute a separate offense.
- C. The owner of any property, builder, contractor, realtor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- D. If the Area Plan Commission of Franklin County is required to utilize the services or the County Attorney or any other attorney in investigating a possible violation of this Code or in enforcing the provisions of this Code pursuant to this Section or any other Section; and such investigation results in a determination that a violation has occurred, or if the County is successful in its enforcement of the Code by way of suit, appeal or other appropriate proceeding; the respondent, defendant or party investigated for a violation shall pay the County's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Code, unless such attorney fees or the costs are specifically waived by the County Commissioners of the Franklin County.

**SECTION 81.22: EFFECTIVE DATE**

---

This Ordinance shall be in full effect from after its passage, as provided by law.

Passed by the Board of County Commissioners of the County of Franklin, Indiana, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BOARD OF COUNTY COMMISSIONERS FRANKLIN COUNTY, INDIANA

\_\_\_\_\_  
President  
  
\_\_\_\_\_  
  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Auditor of Franklin County

Date: \_\_\_\_\_, 20\_\_\_\_

## **APPENDICES: 1-3**

## **QUICK REFERENCE FOR REQUIRED CERTIFICATES (APPENDIX 1)**

### Major Subdivision – Primary Approval

- A: Plan Commission Certificate #1 Primary Approval of a Major Subdivision
- C: Executive Director's Certificate #3 Plan Commission Staff Certificate
- D: Registered Land Surveyor's Certificate
- E: Franklin County Soil and Water Conservation District Certificate
- I: Health Department Certificate
- L: Highway Entrance Certificate

### Major Subdivision – Secondary Approval

- A: Plan Commission Certificate #2 Secondary Approval of a Major Subdivision
- C: Executive Director's Certificate #3 Plan Commission Staff Certificate
- D: Registered Land Surveyor's Certificate
- F: Deed of Dedication
- G: Required Covenants on the Subdivision of Land #1 Right to Farm Covenants and #2 Covenant Enforcement
- J: Cemetery Commission Certificate
- K: Drainage Board Certificate

### Minor Subdivision – Primary Approval

- B: Plan Commission Staff : Primary Approval of a Minor Subdivision
- D: Registered Land Surveyor's Certificate
- I: Health Department Certificate
- K: Drainage Board Certificate
- L: Highway Entrance Certificate

### Minor Subdivision – Secondary Approval

- C: Executive Director's Certificate #1 Secondary Approval of a Minor Subdivision
- D: Registered Land Surveyor's Certificate
- F: Deed of Dedication
- G: Required Covenants on the Subdivision of Land #1 Right to Farm Covenants and #2 Covenant Enforcement
- J: Cemetery Commission Certificate
- K: Drainage Board Certificate

For family divisions only, in addition to the requirements for minor subdivisions:

- H: Certification of Owner for a Family Division

### Administrative Divisions

- C: Executive Director's Certificate #2 Administrative Division Approval
- D: Registered Land Surveyor's Certificate
- K: Drainage Board Certificate
- L: Highway Entrance Permit

**APPENDIX 1: PLAT CERTIFICATES, DEED OF DEDICATION, AND COVENANTS**

---

**PLAN COMMISSION'S CERTIFICATES**

The following forms shall be used in plats:

Primary Approval of a Major Subdivision

The following Certificate shall appear on every major subdivision plat:

UNDER AUTHORITY PROVIDED BY THE INDIANA AREA PLANNING LAW,  
I.C. 36-7-4, ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
INDIANA, AND ALL ACTS AMENDATORY THERETO, AND AN ORDINANCE  
ADOPTED BY

THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY,  
INDIANA, (if the plat is located in the unincorporated territory),

*[OR THE TOWN BOARD OF \_\_\_\_\_INDIANA, (if the plat of the  
subdivision is located in a town),]*

THIS PLAT WAS GIVEN PRIMARY APPROVAL BY THE FRANKLIN COUNTY  
AREA PLAN COMMISSION AS FOLLOWS:

Approved by the Franklin County Area Plan Commission at a meeting held  
\_\_\_\_\_, 20\_\_.

Void unless secondary approval is received by \_\_\_\_\_, 20\_\_\_\_\_.

FRANKLIN COUNTY AREA PLAN COMMISSION

\_\_\_\_\_  
President

[Seal]

Secondary Approval of a Major Subdivision

The following Certificate shall appear on every major subdivision plat prior to recording:

UNDER AUTHORITY PROVIDED BY THE INDIANA ADVISORY PLANNING LAW, I.C. 36-7-4, ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO, AND AN ORDINANCE ADOPTED BY

THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, INDIANA, (if the plat is located in the unincorporated territory),

*[OR THE TOWN BOARD OF \_\_\_\_\_, INDIANA, (if the plat of the subdivision is located in a Town),]*

THIS PLAT WAS GIVEN SECONDARY APPROVAL BY THE FRANKLIN COUNTY AREA PLAN COMMISSION AS FOLLOWS:

Approved by the Franklin County Area Plan Commission at a meeting held \_\_\_\_\_, 20\_\_\_\_.

Void unless recorded by \_\_\_\_\_, 20\_\_\_\_\_.

FRANKLIN COUNTY AREA PLAN COMMISSION

\_\_\_\_\_  
President

[Seal]



B. PLAN COMMISSION STAFF

Primary Approval of a Minor Subdivision

The following Certificate shall appear on every minor subdivision plat:

UNDER AUTHORITY PROVIDED BY IC 36-7-4-700, SUBDIVISION CONTROL, AND ANY AMENDMENTS THERETO, THIS PLAT WAS GIVEN PRIMARY APPROVAL BY THE FRANKLIN COUNTY PLAN COMMISSION STAFF.

Approved by the Franklin County Plan Commission Staff at a meeting held \_\_\_\_\_, 20\_\_\_\_.

Void unless secondary approval is received by \_\_\_\_\_, 20\_\_\_\_.

FRANKLIN COUNTY PLAN COMMISSION STAFF

\_\_\_\_\_  
[Seal]

C. EXECUTIVE DIRECTOR'S CERTIFICATES

3. Secondary Approval of a Minor Subdivision

The following Certificate shall appear on every minor subdivision plat prior to recording:

ALL CONDITIONS OF PRIMARY APPROVAL HAVE BEEN MET, AND THIS PLAT IS GRANTED SECONDARY APPROVAL BY THE EXECUTIVE DIRECTOR OF THE FRANKLIN COUNTY AREA PLAN COMMISSION.

Approved by the Executive Director at a meeting held \_\_\_\_\_, 20\_\_\_\_.

Void unless recorded by \_\_\_\_\_, 20\_\_\_\_.

EXECUTIVE DIRECTOR,  
FRANKLIN COUNTY AREA PLAN  
COMMISSION

\_\_\_\_\_  
[Seal]

Administrative Division Approval

The following Certificate shall appear on every administrative division:

THIS SUBDIVISION HAS BEEN DETERMINED TO BE AN ADMINISTRATIVE DIVISION AND IS ELIGIBLE FOR RECORDING AS SUCH.

Approved by the Executive Director on \_\_\_\_\_, 20\_\_\_\_.

Void unless recorded by \_\_\_\_\_, 20\_\_\_\_.

EXECUTIVE DIRECTOR,  
FRANKLIN COUNTY AREA PLAN  
COMMISSION

---

[Seal]

Plan Commission Staff Certificate

The following Certificate shall appear on all revised plans submitted to the Plan Commission Staff at least one week prior to the Plan Commission meeting at which the petitioner seeks approval of a plat:

THE FRANKLIN COUNTY AREA PLAN COMMISSION STAFF HAS REVIEWED THE APPLICATION FOR THIS PLAT FOR TECHNICAL CONFORMITY WITH THE STANDARDS FIXED IN THE SUBDIVISION CONTROL CODE, IN ACCORDANCE WITH THE PROVISIONS OF THE INDIANA AREA PLANNING LAW, I.C. 36-7-4-706, AND HEREBY CERTIFIES THAT THIS PLAT MEETS ALL OF THE MINIMUM REQUIREMENTS IN THE CODE OF ORDINANCES OF

FRANKLIN COUNTY, INDIANA (if the plat of the subdivision is located in the unincorporated territory)

[OR THE TOWN OF \_\_\_\_\_, INDIANA (if the plat of the subdivision is located in a Town).]

FRANKLIN COUNTY AREA PLAN COMMISSION STAFF

---

Executive Director

Date: \_\_\_\_\_, 20\_\_\_\_.

D. REGISTERED LAND SURVEYOR'S CERTIFICATE

The following Certificate shall be provided for any work on a plat prepared by a registered land surveyor:

I, \_\_\_\_\_ (Name) HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA:

THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED BY ME ON \_\_\_\_\_ (Date); THAT ALL THE MONUMENTS SHOWN THEREON ACTUALLY EXIST; AND THAT ALL OTHER REQUIREMENTS SPECIFIED HEREIN, DONE BY ME, HAVE BEEN MET.

(Signature)

\_\_\_\_\_  
(RLS#)

Date \_\_\_\_\_, 20\_\_\_\_.

[Seal]

(A similar type of certificate may be used by Professional Engineers)

E. FRANKLIN SOIL AND WATER CONSERVATION DISTRICT CERTIFICATE

The following Certificate shall appear on every primary major subdivision plat:

AS PROVIDED IN THE LOCAL SOIL AND WATER CONSERVATION DISTRICT PROGRAM AND AUTHORIZED UNDER STATE OF INDIANA ENABLING LEGISLATION, THE BOARD OF SUPERVISORS HAVE REVIEWED THE PLAT AND PLANS FOR

\_\_\_\_\_  
(Development)

IT HAS BEEN DETERMINED THAT THE PLAT AND PLANS HAVE INCORPORATED ADEQUATE MEASURES FOR WATER DISPOSAL AND/OR EROSION CONTROL FOR THE SOIL CONDITIONS PRESENT.

CERTIFIED AT A MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_,  
20\_\_.

\_\_\_\_\_  
(Chairman)

\_\_\_\_\_  
(Secretary)

F. DEED OF DEDICATION

Each Plat of a Subdivision submitted to the Commission for approval shall carry a Deed of Dedication in substantially the following form:

We, \_\_\_\_\_ the \_\_\_\_\_ undersigned \_\_\_\_\_(names), owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance with the within plat.

This subdivision shall be known and designated as \_\_\_\_\_(name), a subdivision of or an addition to \_\_\_\_\_(\_\_\_\_\_), Indiana. All streets, alleys, and/or roadways shown and not heretofore dedicated, are hereby dedicated to the public, and there shall be no transfer of ownership of street, alleys and/or roadways until the County Commissioners (or governing body in place) have accepted the streets, alleys and/or roadways by Resolution. Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street there shall be erected or maintained no building or structure.

There are strips of ground \_\_\_\_\_ (number) feet in width as shown on this plat and marked "Easement," reserved for the use of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved.

No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities.

(Additional dedications and protective covenants, or private restrictions, would be inserted here upon the subdivider's initiating or the recommendations of the Commission. Important provisions are those specifying the use to be made of the property and, in the case of residential use, the minimum habitable floor area.)

The foregoing covenants (or restrictions) are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 20\_\_\_\_, (a twenty-five (25) year period is suggested), at which time said covenants (or restrictions) shall be automatically extended for successive periods of ten (10) years unless changed by vote of a majority of the then owners of the building sites covered by these covenants, or restrictions, in whole or in part. Invalidation of any one of the foregoing covenants, or restrictions, by judgment or court order, shall in no way affect any of the other covenants, or restrictions which shall remain in full force and effect.

Witness our hands and seals this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

State of Indiana     )

)  
County of Franklin)

Before me, the undersigned Notary Public, in and for said County and State, personally appeared [Name(s)]

\_\_\_\_\_, and each  
separately and severally acknowledged the execution of the foregoing instrument as his  
or her voluntary act and deed, for the purposes therein expressed.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County of Residence

\_\_\_\_\_  
My Commission Expires

[Seal]

#### G. REQUIREMENTS FOR COVENANTS ON THE SUBDIVISION OF LAND

##### Right to Farm Covenants

Subdivisions located in the RE, R-1, R-2, R-3, PUD, A-1 and A-2 districts shall include the following covenant on the plat of the subdivision:

The owner of the herein described real estate (*name of subdivision*), for himself, and for all future owners and occupants of said Real Estate, or any parcel or subdivision thereof, for and in consideration of the right to develop the Real Estate for other than agriculture uses, hereby;

First, acknowledges and agrees that in the (*name of the subdivision*) is in or adjacent to an area zoned for agriculture uses, which uses include, but are not limited to, production of crops, animal husbandry, land application of animal waste, the raising, breeding, and sale of livestock and poultry, including confinement feeding operations, use of farm machinery, and sale of farm products;

Second, waives any and all objections to any such agricultural uses on any real estate zoned for such uses within two miles of any boundary of the (*name of subdivision*), whether such uses currently exist, are enlarged, or changed in use in the future to another agricultural use;

Third, agrees that such agricultural uses, whether currently existing, or hereafter established, enlarged, or changed, do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily injury to third parties, or directly endanger human health; and

Fourth, agree that this covenant is for the benefit of the Franklin County Plan Commission and all persons engaged in agricultural uses within two miles of any boundary of *(name of subdivision)* and is enforceable by any of the foregoing.

Covenant Enforcement

The following statement shall be made a part of any covenants on the plat of a subdivision:

Enforcement of the covenants for *(name of subdivision)* listed on this platted division of land will be by a majority of property owners or a property owners association through convening authority of the Franklin County Circuit Court.

H. CERTIFICATION OF OWNER FOR A FAMILY DIVISION

I, \_\_\_\_\_ do hereby certify that the subdivision of property under my ownership is a family division as satisfied by Section 81.04 of the Area Subdivision Control Code of Franklin County, Indiana and must be recorded in the name of a member of the immediate family to qualify (spouse, child, grandchild, parent, sibling, grandparent). Those family members identified to receive the lots subdivided in this manner are:

	Immediate Family Member	Relation to Owner
Lot 1	_____	_____
Lot 2	_____	_____
Lot 3	_____	_____
Lot 4	_____	_____
Lot 5	_____	_____

I further certify that the property owner and the recipients of the family division lots have not given or received any other divisions created in this manner, and that this subdivision is not for the purpose of circumventing the subdivision ordinance.

Attested to this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Owner_____	Recipient_____
Owner_____	Recipient_____
Owner_____	Recipient_____
Owner_____	Recipient_____
Owner_____	Recipient_____

Notary Statement:

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

[seal]

I. HEALTH DEPARTMENT CERTIFICATE

The following certificate shall appear on all Minor Subdivision Plats.

The above platted lots have met the current required criteria and at this time are eligible for some type of a Septic Permit from the Franklin County Health Department based on the soils information provided by \_\_\_\_\_

(certified Soil Scientist)

Or

The above platted lots have been approved access to a community sewage system located in the Town of \_\_\_\_\_, Franklin County, Indiana.

J. CEMETERY CERTIFICATE

The following certificate shall appear on all revised plats submitted to the Cemetery Commission of minor, major and cluster subdivisions. This certificate will need to be completed with signature on month prior to the Plan Commission meeting at which the petitioner seeks approval of the plat.

Franklin County Cemetery Commission has reviewed the subdivision plat as presented and found no known records on file for any burial plots or pioneer cemeteries located on the parcel(s) of land involved within 100 feet of this subdivision. Any unforeseen burial sites found should be properly reported to the Indiana Department of Natural Resources per I.C. 23-14 and I.C. 14-21-1.

\_\_\_\_\_  
President

Franklin County Cemetery Commission

\_\_\_\_\_

Date reviewed

K. DRAINAGE PLAN CERTIFICATE

This plan has presented to the Franklin County Drainage Board on \_\_\_\_\_, 20\_\_\_\_. I was determined at that time that this proposed development does not alter the surface water drainage pattern, that the after development run-off does not exceed the before development run-off and water that sheds from a new structure will exit the property as it did prior to development.

\_\_\_\_\_  
County Commissioner

\_\_\_\_\_  
County Commissioner

\_\_\_\_\_  
County Commissioner

L. HIGHWAY ENTRANCE CERTIFICATE

The above platted lots propose to gain access to \_\_\_\_\_ Road (or) Highway and have been inspected and reviewed. The proposed lots have an acceptable entrance location and are eligible for a driveway/entrance permit.

Dated \_\_\_\_\_

\_\_\_\_\_  
Franklin County Engineer of INDOT Representative

**APPENDIX 2: SAMPLE FORMS**

FORM 1: SAMPLE AGREEMENT FORM FOR DEVELOPMENT OF A SUBDIVISION

State of Indiana:

County of Franklin:



This AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_(Name of subdivider) hereinafter designated as OWNER, and

The County of Franklin, Indiana, herein represented by the Board of County Commissioners (if the plat of the subdivision is located in the unincorporated territory).

[Or The Town of \_\_\_\_\_, Indiana, herein represented by the Town Board (if the plat of the subdivision is located in a town).]

WITNESSETH:

WHEREAS, the Owner owns and desires to develop lots \_\_\_\_ through \_\_\_\_ (subdivision) located in \_\_\_\_\_, Indiana; and,

WHEREAS, the Plat of lots \_\_\_\_ through \_\_\_\_ inclusive, \_\_\_\_\_ Subdivision, will be given secondary approval by the Franklin County Area Plan Commission, upon the Owner posting a surety bond insuring the satisfactory installation and construction of the following improvements:

(Describe Improvements)

as shown on the Plat prepared by \_\_\_\_\_ (Land Surveyor), attached hereto and made a part hereof, according to the terms and conditions of this Agreement; and,

WHEREAS, the Owner now desires secondary approval of the Plat of \_\_\_\_\_ Subdivision prior to the installation and construction of the above describe improvements, which improvements will be installed and constructed at Owner's sole cost and expense:

NOW, THEREFORE, it is hereby agreed by and between the Owner and

Franklin County, Indiana, (if the plat of the subdivision is located in unincorporated territory),

[Or the Town of \_\_\_\_\_, Indiana, (if the plat of the subdivision is located in a Town)],

That for and in consideration of the approval of lots \_\_\_\_ through \_\_\_\_ inclusive of \_\_\_\_\_ Subdivision, and the sale of lots therein without the above described improvements more particularly shown on the attached plan profile, having been first completed and approved, Owner binds and obligates himself with \_\_\_\_ months from date hereof to install and construct the described improvements in accordance with plans prepared by \_\_\_\_\_ Land Surveyor, which plans meet the requirements of the Code of Ordinances of Franklin County, Indiana [or the Town of \_\_\_\_\_, Indiana, (as the case may be)] as amended, and have been approved by a registered professional engineer or a registered land surveyor (as the case may be), said plans being attached hereto and made a part hereof.

The Owner, in order to further insure faithful performance of said obligation, has executed a \_\_\_\_\_ (surety bond, cashier's check or certified check) in the amount of \$\_\_\_\_\_, which bond is attached hereto and made a part hereof, to guarantee the installation and construction of the following improvements:

(Describe Improvements same as above)

according to plans and specifications therefor. Said bond or check may be cancelled only after said work has been completed, inspected and approved by written acceptance of the said Engineer or Land Surveyor.

The above described improvement shall be constructed under the supervision of \_\_\_\_\_ (Engineer or Surveyor) in full compliance with the specifications and requirements of the Town of Franklin County [or \_\_\_\_\_, Indiana], and when completed said Engineer or Surveyor shall furnish the County [or Town] with a Certificate of Satisfactory Completion.

It is further understood by and between the parties to this Agreement that in the event said improvements are not constructed within \_\_\_\_\_ months from date hereof, Franklin County [or the Town of \_\_\_\_\_], shall have and is hereby granted the right, without putting the said Owner in default, to ipso facto call upon the said surety to complete the improvements hereinabove described, and in default of the surety promptly causing such improvements to be constructed according to the plans and specifications therefor, Franklin County [or the Town of \_\_\_\_\_], shall have the right to cause the improvements to be made and to call upon said surety for payment of all costs and expenses incurred in the construction thereof.

IN WITNESS WHEREOF, these presents have been signed in the presence of the undersigned competent witnesses, at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WITNESS:

NAME OF SUBDIVIDER OR  
DEVELOPMENT COMPANY

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_

FRANKLIN COUNTY [or Town of  
\_\_\_\_\_, Indiana]

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Franklin County Auditor [or Clerk-Treasurer  
of \_\_\_\_\_, Indiana]

\_\_\_\_\_  
Board of County Commissioners [or  
Town Board of \_\_\_\_\_, Indiana]

FORM 2: SAMPLE PERFORMANCE OR SURETY BOND

State of Indiana:

County of Franklin:

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_ of \_\_\_\_\_ as Surety are held and firmly bound unto Franklin County, Indiana, herein represented by the Board of County Commissioners (if the plat is located in the unincorporated territory) *[or the Town of \_\_\_\_\_, Indiana herein represented by the Town Board (if the plat is located in a town)]*, and to all contractors, subcontractors, journeymen, cartmen, truckmen, workmen, laborers, mechanics, and furnishers of materials jointly as their interest occur, in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) dollars, in lawful current money of the United States, for which payment will and truly be made, we bind ourselves, our heirs, successors and assigns, in solido, by these presents.

Dated and signed at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE CONDITIONS of this obligation are such that whereas, the above named principal did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, enter into a certain contract with Franklin County, Indiana, herein represented by the Board of County Commissioners (if the plat of the subdivision is located in the unincorporated territory) *[or the Town of \_\_\_\_\_, Indiana, herein represented by the Town Board (if the plat of the subdivision is located in a town)]*, to build or construct streets, sidewalks, curb and gutters, drainage and sewage facilities in accordance with the plans and specifications prepared and approved by a Professional Engineer or Land Surveyor and approved by the Executive Director of the Commission.

NOW, THEREFORE, if the aforesaid principal shall well and truly and faithfully perform said contract and comply with all its terms, covenants and conditions, according to its tenor and discharge all of said principal's obligations thereunder, and shall fully pay and discharge all of said principal's obligations thereunder, and shall fully pay and discharge all of said principal's obligations to contractors, subcontractors, journeymen, cartmen, workmen, laborers, mechanics, and furnishers of materials employed and furnished in the execution of said contract, then this obligation shall be null and void; otherwise to be and remain in full force, effect and virtue.

IN TESTIMONY WHEREOF, we have hereunto set our hands, in the presence of the two undersigned competent witnesses, this day, month and year above written.

By \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
Signature of Subdivider

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_  
FORM 3: SAMPLE MAINTENANCE AGREEMENT FORM

State of Indiana:

County of Franklin:

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (*Name of subdivider*) hereinafter designated as Owner, and Franklin County, Indiana, herein represented by the Board of County Commissioners (if the plat of the subdivision is located in the unincorporated territory) [*or the Town of \_\_\_\_\_, Indiana, herein represented by the Town Board (if the plat of the subdivision is located in a town)*].

WITNESSETH:

WHEREAS, the Owner has subdivided lots \_\_\_\_ through \_\_\_\_\_, \_\_\_\_\_ Subdivision, and has received approval and acceptance from the County Commissioners [*or the Town Board*] for subdivision improvements constructed herein; and

WHEREAS, under the provisions of the Area Subdivision Control Code of Franklin County, Indiana, the Owner is required to maintain certain improvements for a period of three (3) years;

NOW THEREFORE, it is hereby agreed by and between the Owner and the County Commissioners [*or Town Board*] that the Owner hereby agrees that he will keep all filled trenches, pipes, manholes, structures, and paved or unpaved surfaces constructed by him in \_\_\_\_\_ Subdivision in good condition, and will make such repairs to any defect in materials or workmanship as may develop or be discovered when called upon to do so by the County Commissioners [*or Town Board*].

It is agreed that this Agreement shall be in full force and effect for a period of three (3) years from \_\_\_\_\_, 20\_\_\_\_.

IN WITNESS WHEREOF, these presents have been signed in the presence of the undersigned competent witnesses, at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

of ATTEST:

(NAME OF SUBDIVIDER OR  
DEVELOPMENT COMPANY)

By \_\_\_\_\_

By \_\_\_\_\_

President of the Board of County  
Commissioners [*or the Town Board*]  
\_\_\_\_\_, Indiana]

\_\_\_\_\_  
County Auditor [or Clerk-Treasurer]

FORM 4: SAMPLE MAINTENANCE BOND FORM

State of Indiana:

County of Franklin:

KNOW ALL MEN BY THESE PRESENTS, That \_\_\_\_\_ as Principal, and \_\_\_\_\_ (\$\_\_\_\_) dollars, in lawful current money of the successors, and assigns, in solid by these presents.

Date and signed at \_\_\_\_\_ Indiana, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE CONDITIONS of this obligation are such, that whereas, the above named principal did on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, enter into a certain contract with Franklin County, Indiana, herein represented by the Board of County Commissioners (if the plat of the subdivision is located in the unincorporated territory) [or the Town of \_\_\_\_\_, Indiana, herein represented by the Town Board (if the plat of the subdivision is located in a town)], to maintain for a period of three year(s) from \_\_\_\_\_, 20\_\_\_\_, the improvements in \_\_\_\_\_ Subdivision, and keep all filled trenches, pipes, manholes, structures, and paved or unpaved surfaces constructed by him in good condition, and shall make such repairs to any defects in materials or workmanship as may develop or be discovered when called upon to do so by the County Commissioners [or Town Board].

NOW, THEREFORE, if the aforesaid principal shall well and truly and faithfully perform said contract and comply with all its terms, covenants and conditions, according to its tenor and discharge all of said principal's obligations to \_\_\_\_\_, then this obligation shall be null and void; otherwise to be and remain in full force, effect, and virtue.

IN TESTIMONY WHEREOF, we have hereunto set our hands, in the presence of the two undersigned competent witnesses, this day, month and year above written.

By \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Signature of Subdivider)

WITNESS:

\_\_\_\_\_

---

FORM 5: COMPLETION AFFIDAVIT

This is to certify:

That the following improvements as designed and engineered for \_\_\_\_\_ Subdivision are complete and that inspection reports attested to by a Professional Engineer or Land Surveyor approved by showing them to be in accordance with the specifications and requirements of the Area Subdivision Code of Franklin County, Indiana;

That surety has been posted to guarantee all materials and workmanship and to guarantee repair of any damage that may be inflicted upon the improvements listed in the course of completion of the subdivision; and

That the County Commissioners [*or Town Board*], has accepted these improvements and will henceforth be responsible for all maintenance on them subject to the terms of the maintenance agreement with the subdivider.

(List Improvements)

---

President

Board Of County Commissioners,  
Franklin County, Indiana [*or Town Board*, \_\_\_\_\_,  
*Indiana*]

Date: \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

---

Auditor of Franklin County [*or Clerk-Treasurer*,

\_\_\_\_\_,

*Indiana*

### **APPENDIX 3: SAMPLE SUBDIVISION IMPROVEMENT AGREEMENT FORM**

---

Note: This document is an example only. It is the intention of the Franklin County Area Plan Commission that the agreement on each subdivision be suited to the particular conditions which apply, and modifications to this form should be made and agreed upon by the respective parties as needed.

Parties: The parties to this subdivision improvement agreement ("the agreement") are ("the developer") and Franklin County, Indiana ("the County")

Effective Date: This agreement shall be effective upon its execution by both parties.

#### **RECITALS**

WHEREAS, the developer seeks permission to subdivide property within the County to be known as ("the subdivision"); and

WHEREAS, the County seeks to protect the health, safety, and general welfare of the community by requiring the completion of various improvements related to the subdivision and thereby to limit the harmful effects of sub-standard subdivisions; and

WHEREAS, the purpose of this agreement is to protect the County from the cost of completing subdivision improvements itself and is not executed for the benefit of those providing work, services, or material to the subdivision or for the benefit of lot or home buyers in the subdivision; and

WHEREAS, the mutual promises, covenants, and obligations contained in this agreement are authorized by state law and the County's Subdivision Control Ordinance;

THEREFORE, the parties hereby agree as follows:

#### **DEVELOPER'S OBLIGATIONS**

IMPROVEMENTS: No improvements in this subdivision shall be commenced before this agreement has been executed. After the agreement is executed, the developer will construct and install, at his own expense, those on-site and off-site subdivision improvements listed on Exhibit A attached hereto and incorporated herein by this reference ("the improvements"). Prior to its incorporation into this document, Exhibit A must be reviewed by the Executive Director for verification that the list of improvements and estimated costs are acceptable. The developer's obligation to complete the improvements will arise upon record approval by the Executive Director, will be independent of any obligations of the County contained herein and will not be conditioned on the commencement of building construction in the development or sale of any lots or improvements within the subdivision.

SECURITY: To secure the performance of his obligations hereunder, the developer will deposit with the County on or prior to the effective date, a financial guarantee acceptable to the County. The guarantee for this subdivision consists of the following:

[Insert Description Here]

[The guarantee will be payable on demand to the County and will bear an expiration date not earlier than two years after the effective date of this agreement. The guarantee

will be payable to the County at any time upon presentation to the issuing party (i) an affidavit executed by the County Highway Engineer stating that the developer is in default under this agreement; and (ii) the original guarantee document. This document is Exhibit B attached hereto and incorporated herein by this reference. Sidewalks required within the development shall be installed as buildings are completed on the lots within the subdivision, and the financial guarantee for such sidewalks shall be a cash escrow deposited with a financial institution. The costs for manufacture and placement of street and traffic control signs shall be paid directly to the County before the street improvements are accepted for maintenance by the County Commissioners.

**STANDARDS:** The developer will construct the improvements according to the standards and specifications required by the Franklin County Area Plan Commission ("the commission") as set forth on Exhibit C attached hereto and incorporated herein by this reference. Before its incorporation into this agreement, Exhibit C must be signed by the engineer who will inspect the improvements and the Executive Director.

**WARRANTY:** The developer warrants that the improvements, each and every one of them, be free from defects for a period of [one to five] year(s) from the date that the County accepts said improvement. Prior to the County's release of all or part of the financial guarantee, the developer shall provide [one to five] year(s) maintenance guarantees in the amount of 25% of the original financial guarantee or 25% of the value of the completed improvements, whichever is less. These guarantees shall run to the County Commissioners.

**PRECONSTRUCTION MEETING:** Prior to beginning any improvements, the developer and the licensed professional responsible for the improvement plans shall meet on the site with representatives of the County to discuss the installation of improvements and inspection schedules.

**COMMENCEMENT AND COMPLETION PERIODS:** The developer will complete the improvements, each and every one of them, within two years from the effective date of this agreement (the "completion period"). The developer will not cease construction activities for any period of more than 60 consecutive days (the "abandonment period") without written authorization to do so from the Executive Director. The developer shall notify the County at least 48 hours before commencing any improvements, and shall notify the local utilities department at least 48 hours before commencing any sewer or water improvements.

**AS-BUILT PLANS:** After completion of all public improvements and prior to the release of the financial guarantee for said improvements, the developer shall provide the County two copies of drawings showing the actual locations of all installed street improvements, sanitary and storm sewer improvements, water mains, fire hydrants, valves and stubs, monuments and markers, drainage facilities and other installed permanent improvements. These drawings shall be certified by a registered professional engineer or land surveyor. One copy of these plans shall be submitted to the County and one copy shall be submitted to the local utilities department(s).

**CERTIFICATION:** The developer who prepared the improvement plans shall be responsible for the stakeout, inspection, and certification of completion in accordance



with Exhibit C. Performance guarantees shall not be released or allowed to expire until such certification has been made.

**COMPLIANCE WITH LAW:** The developer will comply with all relevant laws, ordinances, and regulations in effect at the time of record subdivision plat approval when fulfilling his obligations under this agreement.

#### COUNTY'S OBLIGATIONS

**PLAT APPROVAL:** The County will grant secondary plat approval to the subdivision when the terms and conditions imposed by the commission have been satisfied.

**INSPECTION AND CERTIFICATION:** The County will inspect the improvements as they are constructed in accordance with the installation and inspection schedule referred to in Section 7.

**NOTICE OF DEFECT:** The County will provide timely notice to the developer whenever inspection reveals that an improvement does not conform to the standards and specifications shown on Exhibit C or is otherwise defective. The developer will have 30 days from the issuance of such notice to cure or substantially cure the defect. The County may not declare a default under this agreement during the 30-day cure period on account of any such defect unless it is clear that the developer does not intend to cure the defect. The developer will have no right to cure defects in or failure of any improvement found to exist after the maintenance guarantee expires.

**STREET AND TRAFFIC CONTROL SIGNS:** At a mutually agreed upon time during or after the construction process, the County will install street and traffic control signs as shown on Exhibit C.

**ACCEPTANCE FOR MAINTENANCE:** The County will accept for purposes of maintenance only, any validly certified improvement within 30 days of the developer's certification that the improvement was completed in compliance with Exhibit C. The County's acceptance for maintenance is expressly conditioned upon the presentation by the developer of a policy of title insurance, where appropriate, for the benefit of the County showing that the developer owns the improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the County in its reasonable judgment.

**REDUCTION OF SECURITY:** After the acceptance for maintenance of any improvement, the amount which the County is entitled to draw on the performance guarantee will be reduced by an amount equal to 75% of the original guarantee for said improvement as shown on Exhibit A. At the request of the developer and upon recommendation of the Executive Director, the County will execute a letter verifying the acceptance of the improvement for maintenance and waiving its right to draw upon the guarantee to the extent of such amount. A developer in default under this agreement will have no right to such a letter.

**USE OF PROCEEDS:** The County will use funds drawn under the guarantee only for the purposes of completing the improvements or correcting defects in or failures of the improvements.

EVENTS OF DEFAULT: The following conditions, occurrences, or actions will constitute a default by the developer during the completion period:

Developer's failure to schedule and hold the required preconstruction meeting.

Developer's failure to give the required prior notice of commencement of improvements.

Developer's failure to adhere to the agreed upon construction schedule.

Developer's failure to complete construction of the improvements within two years of secondary subdivision approval.

Developer's failure to cure the defective construction of any improvement within the applicable cure period.

Developer's failure to perform work on the improvements for a period of more than 60 consecutive days without prior approval.

Developer's insolvency, the appointment of a receiver for the developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the developer.

Foreclosure of any lien against the property or a portion of the property or assignment or conveyance of the property in lieu of foreclosure.

MEASURE OF DAMAGES: The measure of damages for breach of this agreement will be the reasonable cost of completing the improvements. For improvements upon which construction has not begun, the estimated cost of the improvements as shown on Exhibit A will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of the financial guarantee establishes the maximum amount of the developer's liability. The County will be entitled to complete all unfinished improvements at the time of default regardless of the extent to which development has taken place or whether development ever commenced.

COUNTY'S RIGHTS UPON DEFAULT: When any event of default occurs, the County may draw upon the financial guarantee to the extent of the face amount less 75% of the amount of the guarantee for all improvements theretofore accepted for maintenance by the County. The County will have the right to complete improvements itself or contract with a third party for completion, and the developer hereby grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the property for the purposes of constructing, maintaining, and repairing such improvements. Alternatively, the County may assign the proceeds of the financial guarantee to a subsequent developer or other party who has acquired the subdivision by purchase, foreclosure, or otherwise, who will then have the same rights of completion as the County if, and only if, the subsequent developer or party agrees in writing to complete the unfinished improvements. In addition, the County also may suspend secondary plat approval during which time the developer will have no right to sell, transfer, or otherwise convey lots or structures within the subdivision without express written approval of the County or until the improvements are completed and accepted by the County. These remedies are cumulative in nature, except that during the warranty period, the County's only remedy will be to draw funds under the maintenance guarantee.

**INDEMNIFICATION:** The developer hereby expressly agrees to indemnify and hold the County harmless from and against all claims, costs, and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work at the development site and elsewhere pursuant to this agreement. The developer further agrees to aid, defend, and indemnify the County in the event that the County is named as a defendant in an action concerning the performance of work pursuant to this agreement except where such suit is brought by the developer. The developer is not an agent or employee of the County.

**NO WAIVER:** No waiver of any provision of this agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this agreement signed by both County and developer; nor will the waiver of any default under this agreement be deemed a waiver of any subsequent default or defaults of the same type. The County's failure to exercise any right under this agreement will not constitute the approval of any wrongful act by the developer or the acceptance of any improvement.

**AMENDMENT OR MODIFICATION:** The parties to this agreement may amend or modify this agreement only by written instrument executed on behalf of the County by the County attorney or his designee and by the developer or his authorized officer. Such amendment or modification will be properly notarized before it may be effective.

**ATTORNEY'S FEES:** Should either party be required to resort to litigation, arbitration, or mediation to enforce the terms of this agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including but not limited to reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator, or mediator awards relief to both parties, each will bear its own costs in their entirety.

**VESTED RIGHTS:** The County does not warrant by this agreement that the developer is entitled to any other approval(s) required by the County, if any, before the developer is entitled to commence development of the subdivision or to transfer ownership of property in the subdivision.

**THIRD PARTY RIGHTS:** No person or entity who or which is not a party to this agreement will have any right of action under this agreement, except that if the County does not exercise its rights within 60 days following an event of default, a purchaser of a lot or structure in the subdivision may bring an action in mandamus to compel the County to exercise its rights.

**SCOPE:** This agreement constitutes the entire agreement between the parties and no statement(s), promise(s), or inducement(s) that is/are not contained in this agreement will be binding on the parties.

**TIME:** For the purpose of computing the abandonment and completion periods and time periods for County action, such times in which war, civil disasters, acts of God, or extreme weather conditions occur or exist will not be included if such times prevent the developer or County from performing his/its obligations under the agreement.

**SEVERABILITY:** If any part, term, or provision of this agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not

affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the agreement.

**BENEFITS:** The benefits of this agreement to the developer are personal and may not be assigned without the express written approval of the County. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this agreement are personal obligations of the developer and also will be binding on the heirs, successors, and assigns of the developer. There is no prohibition on the right of the County to assign its rights under this agreement. The County will release the original developer's financial guarantee if it accepts new security from any developer or lender who obtains the property. However, no act of the County will constitute a release of the original developer from his liability under this agreement.

**NOTICE:** Any notice required or permitted by this agreement will be deemed effective when personally delivered in writing or three days after notice is deposited with the U.S. Postal Service, postage pre-paid, certified, and return receipt requested, and addressed as follows:

If to the developer: (To be completed by developer)

If to the County: Franklin County Courthouse  
459 Main Street  
Brookville, Indiana 47012

**RECORDING:** Either developer or County may record a copy of this agreement in the office of the recorder of Franklin County, Indiana.

**IMMUNITY:** Nothing contained in this agreement constitutes a waiver of the County's sovereign immunity under applicable state law.

**PERSONAL JURISDICTION AND VENUE:** Personal jurisdiction and venue for any civil action commenced by either party to this agreement whether arising out of or relating to the agreement or letter of credit will be deemed to be proper only if such action is commenced in the Circuit or Superior Court in Franklin County. The developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Acknowledgement

State of Indiana, County of \_\_\_\_\_, ss:

Before me, the undersigned notary public in and for said county personally appeared

\_\_\_\_\_  
(name of signers, their official capacity and agency name)

And acknowledged the execution of the foregoing agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County of Residence

\_\_\_\_\_  
My Commission Expires

[Seal]

